

Local Small Business Reserve Program

Stephanie Bryant

Local Small Business Reserve Program

OLO Report 2019-9

EXECUTIVE SUMMARY

July 30, 2019

This Office of Legislative Oversight (OLO) report responds to Council's request to better understand (1) business participation in the County's Local Small Business Reserve Program (LSBRP), (2) how the Program serves local, small businesses, and (3) factors that contribute to a business' decision to participate. OLO analyzed LSBRP business registration data and conducted interviews with County Government staff and business community stakeholders to assess the Program and opportunities for improvement. In sum, OLO found that LSBRP is an important County program to help grow local, small businesses; however, opportunities exist to strengthen program mechanics, performance metrics, and marketing of the Program.

Data Analysis. OLO analyzed LSBRP registration and award data to understand characteristics of businesses participating in the Program. Key OLO findings include:

- Since 2010, the County Government has met or exceeded legal requirements to award at least 20 percent of eligible contract dollars to LSBRP-registered businesses.
- Business participation in the LSBRP has fluctuated – experiencing growth in 2010 and 2012, with registrations declining since 2014. The Office of Procurement has increased the pool of fully certified LSBRP businesses - as of October 2018, there were 1,067 businesses actively registered, two-thirds of which were fully certified.
- Data indicate that active, LSBRP-registered businesses are significantly smaller in business size than allowed by LSBRP eligibility criteria (as of October 2018).
- The majority of County procurement dollars are exempt from the LSBRP. In FY18, County procurements totaled \$1,081 million, of which \$905 million fell under at least one of the legally-established program exemptions. Of the \$176.1 million in contract awards eligible for the LSBRP in FY18, one-quarter (\$47.2 million) were awarded to LSBRP-registered businesses.
- Between January 2010 and June 2018, the County awarded contracts to 231 LSBRP-registered businesses. Generally, these businesses registered with the LSBRP prior to 2015 and are larger in size compared to all LSBRP-registered businesses.
- LSBRP-registered businesses were awarded \$369.7 million (both LSBRP reserved and exempt awards) from January 2010 to June 2018. Of this, just over one-half of awards went to 10 LSBRP-registered businesses.

Local Small Business Reserve Program (LSBRP), authorized by the County Council in 2006, is a program that aims to award 20 percent of eligible County procurements to registered and certified local, small businesses. The Program is one method employed by the County to help sustain economic growth by enabling local, small vendors to compete with businesses of similar size and resources for County procurements. The LSBRP is administered by the Division of Business Relations and Compliance (DBRC) in the Office of Procurement.

Program Eligibility. Eligibility is determined by business ownership type, location, and business size. Registered businesses are classified by business type – construction, manufacturing, retail, service, and wholesale.

Business Type	Employee Limit	Prior 3 Years' Avg. Sales Maximum
Construction	50	\$14,000,000
Manufacturing	40	\$14,000,000
Retail	30	\$5,000,000
Service	100	\$10,000,000
Wholesale	30	\$5,000,000

All County contracts valued at \$10 million or less are eligible for LSBRP with numerous exemptions including conflict with a grant, public entity contracts, and non-competitive awards.

For a complete copy of OLO-Report 2019-3, go to:

<http://www.montgomerycountymd.gov/OLO/Reports/CurrentOLOReports.html>

Key Findings from Stakeholder Interviews. Stakeholders agree that Office of Procurement DBRC staff are excellent resources for businesses and the LSBRP is an important County program. However, County Government and external stakeholders report several opportunities to improve the LSBRP:

- Review opportunities to improve the Central Vendor Registration System (e.g., review business capabilities at registration) to ensure effective marketing and competition;
- Increase clarity regarding the LSBRP's 10 contract and \$10 million in cumulative awards participation limit and the ability to track progress towards this requirement;
- Establish performance measures to track outcomes for businesses participating in the Program;
- Enhance marketing of the LSBRP, upcoming solicitations, and trends in County procurements; and
- Explore additional opportunities to promote growth in small and mid-size local businesses (e.g., bid preferences or bid price reduction; reciprocity of local, small business designation; prioritization of contract awards under \$10,000 to local, small businesses; and subcontracting goals specifically for local, small businesses).

Small Business Procurement Programs in Other Jurisdictions. Local, small business procurement programs across the region vary in many features, such as registration process, eligibility, and required government spend. Stakeholders consistently recommended reviewing other jurisdiction's practices in the following three areas to improve operations and assist with meeting program goals:

- Certification Reciprocity. Montgomery County sets its own size standards and requires businesses to provide proof of number of employees and sales. Other jurisdictions permit businesses to submit small business certification from an approved third-party thus reducing the application burden.
- Reserved Contract Dollar Amount. Under the LSBRP, all contracts valued at \$10 million or less are assumed eligible for the LSBRP. Of jurisdictions reviewed, the County has the highest threshold for contract dollar reserved for competition among local, small businesses. Other programs focus on smaller dollar values to increase opportunities for small businesses, especially businesses new to government contracting or businesses looking to grow from subcontractors to prime contractors.
- Program Graduation. Assuming a business meets LSBRP eligibility criteria, a business may stay in the Program until it receives 10 County contracts and \$10 million in awards. Several jurisdictions reviewed have multi-tiered programs which allow businesses to receive procurement benefits as they grow.

OLO Recommendations

Recommendation #1: Review current LSBRP operations and stakeholder suggestions to greater assist and increase the number of participating local, small businesses. Possible examples include:

- **Increase Opportunities for Local, Small Businesses** by targeting businesses new to government contracting, prioritizing awards under \$10,000, establishing subcontracting goals, or creating preference points or bid price reduction for eligible businesses;
- **Implement Programs for Businesses that Grow in the LSBRP** including enhanced training or establishing a mentor-protégé model; and
- **Streamline the LSBRP Process and Ensure Business Capabilities** by permitting alternate small business certifications, vetting business capabilities at registration, or encouraging reciprocity with other County agencies.

Recommendation #2: Develop LSBRP performance metrics to include outcomes for businesses participating in the Program.

Recommendation #3: Improve LSBRP marketing to increase awareness of the Program, its benefits, and opportunities for businesses to contract with the County.

OLO Report 2019-9

Local Small Business Reserve Program

Table of Contents

Executive Summary.....	i
Introduction	1
1. Overview of the Local Small Business Reserve Program	3
2. Local Small Business Reserve Program Business Participation.....	8
3. Summary of County Spending with LSBRP Businesses	15
4. Feedback from the Business Community and County Staff	22
5. Small Business Programs in Other Jurisdictions	29
6. Findings and Recommendations.....	36
7. Agency Comments	46
Appendices	

Introduction

The Local Small Business Reserve Program (LSBRP), authorized by the County Council in 2006, is a program that aims to award 20 percent (of eligible dollars) of County procurements for goods, services, and construction to registered and certified local, small businesses. This program is one method employed by the County to help sustain economic growth by enabling local, small vendors to compete with businesses of similar size and resources for County procurements.¹ More specifically, the LSBRP was created to:

- Enhance the competitiveness of County-based small businesses by creating a separate market where small businesses can compete against each other rather than larger firms for County contracts;
- Broaden the pool of local, small vendors doing business with the County; and
- Encourage the County's economic growth by enhancing the business climate for local, small businesses.²

This report responds to Council's request to better understand LSBRP participation, how the Program serves local, small businesses, and factors that contribute to a business' decision to participate.

OLO staff member Stephanie Bryant conducted this study, with assistance from Kristen Latham and Kelli Robinson. OLO received a high level of cooperation from everyone involved in this study and appreciates the information and insights shared by all who participated:

County Government

Adam Ortiz, Director, DEP
Patrice Bubar, DEP
Shelley Janashek, DEP
Kimberly Morris, DEP
Lisa Swager, DEP
David Dise, Director, DGS
Isami Ayala-Collazo, DGS
Greg Ossont, DGS
Sunil Pandya, DGS
Richard Taylor, DGS
Tim Goetzinger, Acting Director, DHCA
Stevens Brown, DHCA
Robert Dorfman, Director, DLC
Evelin Chavez, DLC
Edgar Gonzalez, DLC
John Utermohle, DLC
Al Roshdieh, Director, DOT
Tim Cupples, DOT
Richard Dorsey, DOT

Fred Lees, DOT
Michael Paylor, DOT
Jose Thommana, DOT
Emil Wolanin, DOT
Scott Goldstein, Chief, FRS
Dominic Del Pozzo, FRS
Andres Olaciregui, FRS
Judy Stephenson, MC Business Solutions Group, Small Business Navigator, Executive Branch
Sarah Miller, MCEDC
Brandon Bedford, MCEDC
Marc Hansen, Director, OCA
Trevor Ashbarry, OCA
Megan Greene, OCA
Tammy Seymour, OCA
Avinash Shetty, Director, PRO
Sheronda Baltimore, PRO
Michael Brown, PRO
Grace Denno, PRO
Pam Jones, PRO
Cherri Branson, Former Director, PRO

¹ Montgomery County Office of Procurement, FY16 LSBRP Annual Report, available at <https://www.montgomerycountymd.gov/PRO/Resources/Files/Reports/LSBRPAnnualReportFY16.pdf>

² Executive Regulation 21-05AM; January 22, 2018 County Council Worksession Packet: Agenda Item #3, Bill 37-17, Local Small Business Reserve Program – Eligibility – Amendments, pg. 1; OLO Report 2010-4, Evaluation of the Local Small Business Reserve Program, December 8, 2009.

Local Small Business Reserve Program

Business Community

Ellen Allentoff, Boundless
Barbara Ashe, Montgomery County Chamber of Commerce
Charles Atwell, Innovative Business Interiors
Marilyn Balcombe, Gaithersburg-Germantown Chamber of Commerce
Richard Briggs, Highway Safety & Services, Inc.
Pam Clark, Clark Concepts, LLC
Colin Dalzell, EEPEX, Inc.
Dave D'Amato, EAI Security Systems, Inc.
Don D'Amato, Electric Advantage, Inc.
Carrie Foster, O'Connell & Lawrence, Inc.
Marji Graf, Rockville Chamber of Commerce
Bryan Hill, EEPEX, Inc.
Jon Hulsizer, Olney Chamber of Commerce
Sarah Iranpour, Technology Digest, Inc.
Laura Johnson, Training Outreach, LLC
Ellen Kandell, Alternative Resolutions, LLC
Carmen Larsen, AQUAS, Inc. & Hispanic Chamber of Commerce, Montgomery County
Mandy Lippman, Bigbelly
Ken Mallick, Mallick Mechanical Contractors
Stanley Martin, O'Connell & Lawrence, Inc.
Kyle McPherson, Highway Safety & Services
James O'Connell, O'Connell & Lawrence, Inc.
Ken O'Connell, O'Connell & Lawrence, Inc. & Montgomery County Small Business Association
Jane Redicker, Greater Silver Spring Chamber of Commerce
Fred Silver, Olney Chamber of Commerce
Vik Sharma, Unipark Valet
Vicky Surles, Wheaton & Kensington Chamber of Commerce
Michelle Taylor, BETAH Associates & Maryland Black Chamber of Commerce

Other Jurisdictions

Debra Carter, Prince George's County Government
Ajani Pierce, Maryland Department of Labor, Licensing, and Registration
Christopher McGough, Fairfax County Government
Lisa Mitchell Sennaar, MD Governor's Office of Small Minority, and Women Business Affairs
Carla Tucker, Baltimore County Government
April Williams, Washington Suburban Sanitation Commission

Methodology. To prepare this report, OLO gathered information through document reviews, data analysis, and interviews with staff from Executive Branch departments. OLO also conducted stakeholder interviews with business community members and representatives from other jurisdictions to understand LSBRP benefits, lessons-learned, and opportunities for improvement.

Chapter 1. Overview of the Local Small Business Reserve Program

The Local Small Business Reserve Program (LSBRP), authorized by the County Council in 2006, is a program that aims to award 20 percent (of eligible dollars) of County procurements for goods, services, and construction to registered and certified local, small businesses. This program is one method employed by the County to help sustain economic growth by enabling local, small vendors to compete with businesses of similar size and resources for County procurements.³ More specifically, the LSBRP was created to:

- Enhance the competitiveness of County-based small businesses by creating a separate market where small businesses can compete against each other rather than larger firms for County contracts;
- Broaden the pool of local, small vendors doing business with the County; and
- Encourage the County's economic growth by enhancing the business climate for local, small businesses.⁴

The LSBRP is administered by the Division of Business Relations and Compliance (DBRC) in the Department of Procurement. DBRC is responsible for registering businesses in the Program; identifying LSBRP contract opportunities; assisting County Government staff with program-related activities; ensuring compliance with requirements; and completing outreach and promotion of the Program in the business community.

This chapter summarizes in greater detail the requirements and administration of the LSBRP.

A. LSBRP Eligibility

In order to be eligible for the LSBRP, businesses must meet several requirements – based on the business' ownership type, location, and size:⁵

- 1. Ownership Type.** A vendor must be independently owned and operated and cannot be a broker or subsidiary.
- 2. Location.** A vendor must have its principal place of business in Montgomery County, meaning (a) the business has its physical location in Montgomery County only OR (b) the business has physical locations both in and outside Montgomery County, but the County-based business accounts for over 50 percent of total employees or gross sales.
- 3. Business Size.** Business size is based on number of employees and average sales revenue for five types of businesses – construction, manufacturing, retail, services, and wholesale. Sales revenue is determined by averaging a business' gross sales for the most recently completed three fiscal years using tax returns or audited financial statements.⁶ A business may select more than one business type. In

³ Montgomery County Office of Procurement, FY16 LSBRP Annual Report.

⁴ Executive Regulation 21-05AM; January 22, 2018 County Council Worksession Packet: Agenda Item #3, Bill 37-17, Local Small Business Reserve Program – Eligibility – Amendments, pg. 1; OLO Report 2010-4, Evaluation of the Local Small Business Reserve Program, December 8, 2009.

⁵Montgomery County Code §11B-65; COMCOR 11B.65.01.02; Montgomery County Office of Procurement, Local Small Business Reserve Program, available at <https://www.montgomerycountymd.gov/pro/dbrc/lsbrp.html>

⁶ If vendor has not been in business for three years, employment and gross sales are averaged for each year or part of a year in which they have been operational or based on future projections.

Local Small Business Reserve Program

that case, LSBRP eligibility is based on the more liberal size and sales criteria. For example, a vendor with both service and wholesale operations can have up to 100 employees.⁷

Table 1. Employee Limit and Sales Requirements for LSBRP Eligibility

Business Type	Employee Limit		Prior 3 Years' Average Sales Maximum
Construction	50		\$14,000,000
Manufacturing	40		\$14,000,000
Retail	30	OR	\$5,000,000
Service	100		\$10,000,000
Wholesale	30		\$5,000,000

Source: COMCOR 11B.65.01.03

Registering in the LSBRP. All businesses (LSBRP or not) that would like to participate in the County's procurement process must self-register using the County's Central Vendor Registration System (CVRS). The CVRS is a single stop website for any business that would like to bid on contracts with Montgomery County Government, as well as, Montgomery County Public Schools, Montgomery College, Housing Opportunities Commission, and the City of Rockville (although each operate their own procurement process). As part of the general CVRS application, vendors also self-select National Institute of Government Purchasing (NIGP) commodity codes that summarize the products and services supplied by the business and available for purchase by the County. Each business may select up to 100 commodity codes.⁸

In order to participate in an LSBRP solicitation, businesses must submit an application as an LSBRP firm. During the initial CVRS registration, the system automatically alerts businesses that may qualify for the LSBRP based on the business' address. If the business is interested in obtaining LSBRP certification, it must complete the LSBRP application portion of its vendor registration. At this point, vendors may elect to upload documents verifying eligibility (see page 4 for list) and go through the full certification process or may complete the LSBRP application without uploading further documents and obtain full certification if selected for a LSBRP County contract (previously known as self-certification).⁹ Vendors must renew their registration (whether self or fully-certified) every three years.¹⁰

Graduation from the LSBRP. There are two ways a business "graduates" from the LSBRP, meaning that a business is no longer eligible to compete for LSBRP-reserved contracts¹¹:

- A LSBRP vendor grows, both number of employees and/or gross sales, and no longer meets the eligibility size criteria (includes mergers); or

⁷ COMCOR 11B.65.01.03

⁸ Montgomery County Office of Procurement, Central Vendor Registration System Vendor Registration Manual; Montgomery County Central Vendor Registry System, available at <https://mcipcc.net/main/homePage.php>

⁹ Procurement staff report that the term "self-certified" is no longer used; rather the distinction is made between vendors that complete the LSBRP application and upload required documents versus those that just submit the application. The data sources provided to OLO by the Office of Procurement uses the terms full- and self-certified. For the purposes of this report, OLO used these terms to maintain consistency with the data sources.

¹⁰ Stakeholder Interviews; Central Vendor Registration System Vendor Registration Manual

¹¹ A business may also not meet location requirements.

- A LSBRP vendor receives \$10 million in the aggregate of County contracts and at least 10 separate contracts, as either a County prime contractor or a subcontractor, since January 1, 2006.

The Director of Procurement provides a written notice to the LSBRP vendor when the business is no longer eligible for the Program and Procurement staff remove the vendor from the LSBRP database.¹²

B. Reserving and Awarding LSBRP Contracts

As mentioned above, one goal of the LSBRP is to expand procurement opportunities for local, small businesses with County Government. To accomplish this, County departments and the County Government, as a whole, must award 20 percent of eligible purchases to local, small businesses. The 20 percent requirement may be met by awarding contracts to LSBRP-registered vendors through the regular procurement process and/or reserving a contract specifically for LSBRP vendors.¹³ All County contracts valued at \$10 million or less are eligible for LSBRP designation; however, the County Code exempts certain types of contracts from the Program:

- Contracts to which the LSBRP law did not apply because of a conflict with state, federal, or local law or grant requirement;
- Pre-existing contracts or extension(s) of multi-year contracts;
- Non-competitively awarded contracts;
- Public entity or emergency contracts;
- Bridge contracts;
- A cooperative procurement;
- Contracts granted a waiver by the Chief Administrative Officer;
- Any single procurement greater than \$10 million; and
- Any procurement where no local, small business was qualified or able to perform the contract.¹⁴

Identifying LSBRP Contract Opportunities. When a County department determines a need for goods or services, department contract administrators work with DBRC staff work to identify current and future solicitations to reserve under the LSBRP. Departments can reserve contract opportunities specifically for competition among LSBRP-registered businesses or attempt to fulfill LSBRP requirements with non-LSBRP reserved contracts.

Identifying LSBRP-Registered Businesses. Prior to reserving a solicitation for the LSBRP, department staff identify potential LSBRP vendors from those registered in the Central Vendor Registration System, using the following strategies:

- Procurement staff work with the contract administrator to develop a list of commodity codes to identify possible registered businesses that could respond to the LSBRP solicitation;
- Department staff work with DBRC staff to request capabilities and interest from registered business by sending out Requests for Interest based on commodity codes;

¹² Montgomery County Code §§11B.67-68; COMCOR 11B.65.01.03, 11B65.01.05

¹³ Montgomery County Code §11B.66; COMCOR 11B.65.01.04

¹⁴ *Ibid.*

Local Small Business Reserve Program

- DBRC staff notify business community leaders (e.g., Chambers of Commerce, trade associations) of expected LSBRP solicitations and encourage outreach to their members;
- DBRC staff search databases of businesses in Montgomery County to identify potential LSBRP vendors; and
- DBRC staff identify current, unregistered vendors on existing County contracts, that may meet LSBRP requirements, and advertise the solicitation.¹⁵

Advertising Solicitations. Once completed, the solicitation is posted on the County's website for the number of days as required by the type of solicitation and is specified as a LSBRP solicitation.¹⁶ The Office of Procurement also sends out electronic solicitation notices and weekly newsletters to advertise upcoming opportunities.

Verifying LSBRP Eligibility. Businesses submit bids or proposals for LSBRP-reserved solicitations and the contracting department selects the most qualified or lowest bid (depending upon the type of solicitation). DBRC staff then verify that the vendor meets program requirements. To verify eligibility, a vendor must provide the following to the Office of Procurement:

- Last fiscal year tax return;
- Lease for the vendor's Montgomery County business location; and
- State of Maryland Employer Unemployment Insurance contributions.

Since 2016, the Office of Procurement has prioritized fully certifying LSBRP-registered vendors earlier in the procurement process, rather than reviewing required documents after a bid is selected and therefore streamlining the process. If no eligible LSBRP vendors submit a bid or proposal, the LSBRP solicitation is canceled, and the County will re-issue the solicitation as a non-LSBRP solicitation.¹⁷

¹⁵ Executive Branch stakeholder interviews.

¹⁶ Montgomery County Code §11B-66; Informal solicitations are posted on the County's website for five business days and formal solicitations are posted for 30 days.

¹⁷ Executive Branch stakeholder interviews.

Spotlight: Federal Small Business Administration 8(a) Program

The Federal Small Business Administration (SBA) operates an 8(a) Program that provides training, technical assistance, and contract opportunities to small businesses. Participating businesses are eligible for 8(a) reserved contracts. SBA assigns staff to monitor and measure participating firm's progress, including annual reviews, business planning collaboration, identification of potential contract opportunities, and marketing of firms' technical capabilities to federal procurement agents.

Businesses are only allowed to participate in the program for nine years, measured from the date of admission, and cannot repeat the program. In the last five years of the nine-year term, 8(a) businesses go through a transition period. During this period, businesses must achieve annual targets for revenues from non-8(a) sources, starting with 15% in the fifth year and growing to 55% in the ninth year.

SBA also operates a mentor-protégé program. Eligible firms with a demonstrated commitment and capacity can mentor 8(a) businesses. (Eligible firms include large firms, small businesses, graduated 8(a) businesses, and small businesses in the transition stage of the 8(a) program). The SBA must approve the mentor and the protégé must be in good standing in the program. Benefits for the mentor include: providing assistance counts towards contract subcontracting requirements, ability to pursue a joint venture with an 8(a) firm and win an 8(a) reserved contract, and ability to acquire a large ownership share in the small businesses to grow capital. Protégés in the program retain their small business status.

Source: U.S. Small Business Association, 8(a) Business Development program, available at <https://www.sba.gov/federal-contracting/contracting-assistance-programs/8a-business-development-program>; Congressional Research Service, Small Business Administration: A Primer on Programs and Funding, Updated March 16, 2019, available at <https://crsreports.congress.gov/product/pdf/RL/RL33243>

Local Small Business Reserve Program

Chapter 2. Local Small Business Reserve Program Business Participation

This chapter summarizes County businesses participation in the LSBRP. For this report, OLO gathered information through document reviews, data analysis, and interviews with staff from the Office of Procurement and Executive Branch. OLO used four primary data sources.

Office of Procurement LSBRP Annual Reports, FY10 – FY18. Outlined in County law and regulations, the Office of Procurement is required to track LSBRP performance and report to Council annually.¹⁸ The following metrics are reported in the LSBRP Annual Report:

- Number, type, and dollar amount of reserved contracts;
- Number, type, and dollar amount of each waiver granted by the Chief Administrative Officer and other exemptions;
- Information on how these numbers have changed from previous years;
- Extent of outreach efforts by the Department;
- List of contracts awarded over \$100,000 to LSBRP-registered businesses; and
- Department progress towards the 20 percent spend requirement.

CVRS Bi-Annual Data Summary, January 2010 – June 2018. The Office of Procurement tracks the total number of businesses registered to do business with the County in the Central Vendor Registration System (CVRS), including the number of businesses registered in the LSBRP. This data source also tracks the number of businesses that are fully- and self-certified. The Office of Procurement provided this data biannually (as of January and July) for each year from 2010 to 2018.

LSBRP Business Registry, October 2018. The Office of Procurement provided OLO with a list of LSBRP vendors in the CVRS as of October 2018. The Excel file contained data on all businesses which were in the process of becoming or are fully certified LSBRP-registered businesses, as well as, data on disqualified businesses or those that started, but did not complete, the application. For each business record, the dataset listed:

- Business type (i.e., construction, manufacturing, retail, service, or wholesale);
- Address;
- LSBRP status (i.e., whether vendor has full certification, is self-certified, pending Procurement staff review, disqualified, or failed to complete application);
- Application and certification data (date the vendor applied for the LSBRP, certification date, and disqualification data, if applicable); and
- Average sales, number of employees, and commodity codes for services or goods provided. Businesses that self-certify and do not submit required documents may not have employee and/or sales data. Also, there are a number of LSBRP vendors listed in the CVRS as fully certified but have no employee and sales data.

Awards to LSBRP-Registered Businesses. The Office of Procurement provided OLO with a list of all LSBRP-registered businesses awarded County contracts between April 2003 and June 2018 (both LSBRP-reserved and LSBRP-exempt contracts based on solicitation posting date). The dataset contains contract number, name of

¹⁸ LSBRP Annual Reports are available on the Office of Procurements website at <https://www.montgomerycountymd.gov/pro/PRONumbers.html>

LSBRP-business awarded the contract, encumbrance amount, contract type, solicitation date and description, number of bidders (tracked after 2010), and whether the contract was reserved under the LSBRP.

A. Business Participation in the Local Small Business Reserve Program

As of October 2018, there were 1,271 businesses listed as LSBRP in the County's Vendor Registration System, of which 1,067 had active registrations (fully- and self-certified, and pending Procurement staff review). This section examines the number and characteristics of businesses registered with the LSBRP.

Table 2. Total Number of Businesses in the LSBRP Vendor Registry, as of October 2018

Vendor Record Type	No. of Businesses
Actively registered LSBRP businesses	1,067
Disqualified businesses (currently not eligible)	86
Businesses which started but did not complete application	118
Total	1,271

Source: OLO, Office of Procurement, LSBRP Business Registry dataset provided October 2018

Some key overall findings include:

- On average 1,023 businesses were actively registered with the LSBRP between January 2010 and July 2018. The LSBRP experienced growth among active registered businesses in 2010 and 2012; however active registrations have declined since 2014.
- Of the 1,067 registered-LSBRP businesses (as of October 2018), 52 percent joined the Program since 2015. Businesses providing services (professional and non-professional) comprise 75 percent of all LSBRP-registered businesses.
- LSBRP-registered businesses were notably smaller, both in terms of gross sales and number of employees, than legally established maximums for all business types (construction, manufacturing, retail, services, or wholesale).
- Reasons businesses fail to renew their LSBRP certification include lack of opportunities, lengthy bid process, small profit margins, and lack of outreach about upcoming opportunities.

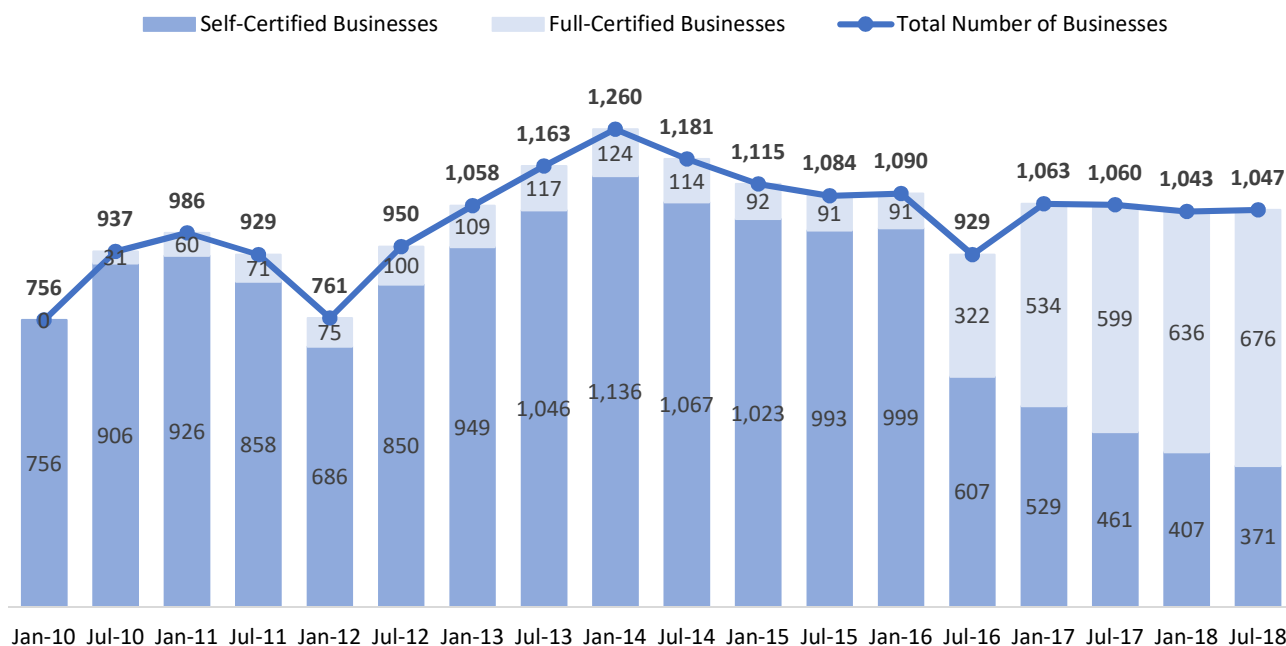
LSBRP Registration Trends – January 2010 through July 2018. Chart 1 shows the number of actively registered businesses biannually for each January and July from 2010 to 2018, including both fully- and self-certified LSBRP-registered businesses.¹⁹ Of note, Chart 1 reflects totals as of July 2018 and does not track businesses that became registered after this date. Over the eight years, on average 1,023 businesses were registered with the Program. Total number of businesses registered increased between 2010-2011 and again between 2012-2014. Since 2014, active registrations have declined.

¹⁹ CVRS Bi-Annual Data Summary, January 2010 – June 2018; LSBRP Business Registry dataset provided October 2018. The Office of Procurement provided LSBRP point-in-time data as of October 2018, which shows 20 businesses registered with the program between July 2018 and October 2018.

Local Small Business Reserve Program

Of note, the number of fully certified LSBRP businesses (i.e., met eligibility criteria and provided required documents) increased in 2016 because of a change in County Government policy to certify businesses prior to selection for a LSBRP-reserved contract.²⁰

Chart 1. Number of Active LSBRP-Registered Businesses, 2011-2018



Source: OLO, Office of Procurement, CVRS Bi-Annual Data Summary, January 2010 – June 2018.

Number of County Businesses Eligible to Participate in the LSBRP. OLO attempted to compile data on the number of businesses in the County eligible to participate in the LSBRP and the percent of those businesses that have registered with the LSBRP. OLO found that data sources count businesses differently and do not track small businesses as defined by the LSBRP law and regulation. The following summarizes the data sources:

- The U.S. Census Bureau 2016 County Business Patterns counts the number of establishments with paid employees any time during the year, but a single company can have more than one establishment²¹;
- The Maryland Department of Labor, Licensing, and Regulation counts employers with employees that are covered by unemployment insurance, excluding family-owned and operated businesses, sole proprietorships, or other types of businesses without covered employees (i.e., some companies with employees paid by commission)²²;
- Montgomery County Economic Development Corporation (MCEDC) provided OLO with a business count calculated by Dun & Bradstreet, a corporation that provides commercial data and analytics for

²⁰ Prior to 2016, the County Government's policy was to fully certify a business if/when the businesses were selected to receive a County contract reserved under the LSBRP program. Currently, a self-certified business may still apply for a LSBRP-reserved contract. However, prior to contract award, the Office of Procurement will verify the business' eligibility, including review of required tax documents.

²¹ U.S. Census Bureau, 2016 County Business Patterns Survey, available at <https://www.census.gov/programs-surveys/cbp.html>.

²² Maryland Department of Labor, Licensing, and Regulation staff.

businesses. As shown below the Dun & Bradstreet business count is much higher than other sources. MCEDC staff report that while Dun & Bradstreet does not report the corporation's methodology, the gap is similar to data presented by the U.S. Census' 2012 Survey of Businesses Owners. This study counts all non-farm businesses filing Internal Revenue Service tax forms as individual proprietorships, partnerships, or any type of corporation and with receipts of \$1,000 or more. The 2012 Survey of Businesses Owners is based on a count of firms consisting of one or more establishments and includes firms with and without paid employees. This yields a larger total number of businesses (118,965 businesses) compared to firms with only paid employees (21,396 businesses) (as of 2012).²³

Table 3 summarizes data from the three sources listed above that report the total number of businesses in Montgomery County and which also identify the number of businesses with 50 fewer employees.²⁴ While variation exists in how businesses are counted, the data sources show:

- The number of businesses with 50 or fewer employees represent 90 - 96 percent of all County businesses. This suggests that a majority of County businesses may qualify for the LSBRP; and
- The number of small businesses registered as of October 2018 (1,067) represents a fraction of the businesses that may be eligible for the LSBRP (ranging from 1 – 5 percent).

Table 3. Number and Size of Businesses in Montgomery County

Source	Year	Total No. of Businesses	No. of Businesses with ≤50 employees	%
U.S. Census Bureau, County Business Patterns	2016	27,421	25,869	94%
Maryland Department of Labor, Licensing and Regulation	3 rd Quarter 2018	32,527	31,103	96%
Dun & Bradstreet Provided by MCEDC	2018	107,892	97,373	90%

Source: U.S. Census Bureau, 2016 County Business Patterns; Maryland Department of Labor, Licensing, and Regulation; and Montgomery County Economic Development Corporation.

Snapshot of Active Registered Businesses – October 2018. The LSBRP Business Registry dataset (provided in October 2018) includes 1,067 active LSBRP-registered businesses, with 52 percent of businesses joining the Program since 2015.²⁵ Two-thirds of the businesses have full LSBRP certification, while roughly one-third of businesses are self-certified (Table 4).

²³ MCEDC staff, U.S. Census Bureau, Survey of Business Owners and Self-Employed Persons, available at <https://www.census.gov/programs-surveys/sbo/about.html>

²⁴ The LSBRP regulation permits businesses to qualify for the program with 30 to 100 employees. See Chapter 1.

²⁵ Procurement data. Total does not include 86 businesses that were once registered, but disqualified or 118 businesses that started, but did not complete the application as of October 2018

Local Small Business Reserve Program

Business Type. Table 4 shows that 75 percent of businesses with active LSBRP-registrations provide professional or non-professional services. Businesses may select multiple business types (e.g., service and retail) when registering. A total of 102 businesses selected two or more business types, making this the second largest category. Across all business types, the most commonly offered goods or services are:

- Janitorial or custodial services;
- Graphic art services;
- Painting, maintenance, and repair services;
- Video production; and
- Web page design, management, and maintenance.

Table 4. Active Registered LSBRP Businesses by Business Type, October 2018

Business Type	Full-Certified	Self-Certified	Pending*	Total
Construction	64	28	3	95
Manufacturing	11	2	--	13
Retail	24	15	--	39
Service	530	256	10	796
Wholesale	15	7	--	22
2 or more	71	31	--	102
Total	715	339	13	1,067

*These 13 businesses were actively working with the Office of Procurement in October 2018 to obtain full certification.
Source: OLO, Office of Procurement, LSBRP Business Registry data provided October 2018.

Business Size. The data indicate that across all five business types, active LSBRP-registered businesses were notably smaller than the legally established maximums, both in terms of number of employees and average gross sales (Table 5). As noted in Chapter 1, businesses may select more than one business type. For these businesses, LSBRP eligibility criteria is set by the more liberal maximums for number of employees or average gross sales. For example, a business offering both services and retail, can have up to 100 employees and average sales totaling \$10 million, compared to a business registered solely as a retail business is capped at 30 employees and \$5 million in gross sales.²⁶ As discussed above, available data sources that track the number of businesses in the County do not track small businesses as defined by the LSBRP law and regulation, including business size standards. OLO was not able to compare business size characteristics of LSBRP-registered businesses to all businesses located in Montgomery County. As such, OLO cannot draw any conclusions regarding the size characteristics of LSBRP participants as compared to County businesses in general.

**Table 5. Comparison of Maximum Business Size to Actual Business Size
for Actively Registered LSBRP Businesses, October 2018***

Business Type	Maximum Business Size	Actual Average Business Sizes
Construction		
No. of Businesses	--	95
Avg. Gross Sales Prior 3 Years	\$14,000,000	\$3,378,973
Avg. No. of Employees	50	12
Manufacturing		
No. of Businesses	--	13
Avg. Gross Sales Prior 3 Years	\$14,000,000	\$3,062,233
Avg. No. of Employees	40	21
Retail		
No. of Businesses	--	39
Avg. Gross Sales Prior 3 Years	\$5,000,000	\$3,263,541
Avg. No. of Employees	30	8
Service		
No. of Businesses	--	796
Avg. Gross Sales Prior 3 Years	\$10,000,000	\$1,244,809
Avg. No. of Employees	100	11
Wholesale		
No. of Businesses	--	22
Avg. Gross Sales Prior 3 Years	\$5,000,000	\$3,018,928
Avg. No. of Employees	30	6
2 or More Business Types*		
No. of Businesses	--	102
Avg. Gross Sales Prior 3 Years	--	\$1,541,265
Avg. No. of Employees	--	10

Source: OLO, Office of Procurement, LSBRP Business Registry data provided October 2018.

*Gross sales data was not available for a total of 162 businesses.

²⁶ COMCOR 11B.65.01.03; Executive Branch staff interviews.

Local Small Business Reserve Program

Snapshot of Disqualified LSBRP Businesses – October 2018. The LSBRP Business Registry dataset (provided in October 2018) includes 86 businesses that are listed as disqualified from the LSBRP, but once participated in the Program (fully or self-certified). The majority of these businesses registered with the Program prior to 2011 (71 percent) and offered consulting services, advertising, graphic arts services, and research/evaluation services. The most common reason for disqualification listed in the dataset was “failure to renew (70 out of 86 disqualified businesses – October 2018).²⁷ OLO contacted businesses that were disqualified by the Office of Procurement between January 2015 to October 2018. Commonly reported reasons for non-renewal include:

- Lack of business opportunities;
- Lengthy and time-consuming bid process;
- Profit margins were minimal or not worth the time and investment to pursue opportunities; and
- Lack of outreach about upcoming business opportunities.²⁸

²⁷ As discussed in Chapter 1, additional reasons for disqualification or non-renewal include no longer meeting LSBRP eligibility criteria (i.e., business size standards or location) and receiving in aggregate 10 County contracts and \$10 million in awards. Of the remaining 16 disqualified businesses included in the dataset: 10 failed to meet eligibility criteria; 2 exceed the \$10 million and 10 contract participation cap; 2 business were no longer interested in the program; 1 was no longer in business; and 1 provided no reason for disqualification.

²⁸ Stakeholder interviews.

Chapter 3. Summary of County Spending with LSBRP Businesses

Using the same data sources outlined in Chapter 2, this chapter examines County spending with LSBRP-registered businesses. It is important to note that some LSBRP contracts are designated as LSBRP within the Program, while other contracts are awarded to LSBRP vendors, even if the contract solicitation was not designated as a LSBRP solicitation. Key findings include:

- The majority of County contract spending is exempted from the LSBRP (60 percent in 2018). Primary exemptions include pre-existing contracts and contracts exceeding \$10 million.
- Between January 2010 and June 2018, the County awarded contracts to 231 LSBRP-registered businesses. Generally, these businesses registered with the LSBRP prior to 2015 and are larger in size compared to all LSBRP-registered businesses.
- Just over one-half of awards went to 10 LSBRP-registered businesses between January 2010 and June 2018 (\$197.9 million out of \$369.7 million)

This chapter is organized as follows:

- **Section A** summarizes LSBRP eligible contracts and expenditures;
- **Section B** provides an overview of all LSBRP contracts, both LSBRP-eligible and LSBRP-exempt;
- **Section C** details the characteristics of contracts awarded to LSBRP businesses;
- **Section D** details the characteristics of LSBRP businesses awarded contracts; and
- **Section E** provides information on businesses that have “graduated” or are close to graduating from the LSBRP.

A. Overview of LSBRP-Reserved Procurements, FY10-FY18

Table 6 shows FY10 – FY18 total eligible procurements for the LSBRP and the total expenditures to LSBRP-registered businesses. In FY18, 40 percent of County procurements were eligible for the LSBRP; total eligible dollars increased significantly, rising from \$85 million (FY10) to \$430.6 million (FY18). As noted in Chapter 1, departments and the County Government, as a whole, are required to spend at least 20 percent of eligible dollars annually with LSBRP-registered businesses. The second row of Table 6 – Expenditure to LSBRP-Registered Businesses – provides total contracts awarded to LSBRP-registered businesses through the LSBRP reserve process and the regular procurement process. In FY18, the County awarded a total of \$115.4 million to LSBRP-registered businesses through the LSBRP reserve process (\$47.2 million) and the regular procurement process (\$68.2 million). The combined total of awards to LSBRP-registered businesses equals 27 percent of all LSBRP eligible procurements. This exceeds the County’s required yearly spend of 20 percent.²⁹

²⁹ Executive Branch Staff Interviews. Prior to FY11, the LSBRP law required a minimum of 10% of spending. County Government meets is 20% spend requirement to LSBRP-registered businesses through a combination of contracts reserved through the LSBRP and LSBRP-exempt contracts. OLO Report 2010-4, Evaluation of the Local Small Business Reserve Program, available at <https://www.montgomerycountymd.gov/olo/resources/files/2010-4.pdf>.

Local Small Business Reserve Program

Table 6. County Spending Eligible for LSBRP-Reserved Contracts, FY10- FY18

	FY10	FY11	FY12	FY13	FY14	FY15	FY16	FY17	FY18
Total	\$974.0	\$1,050.7	\$845.3	\$974.1	\$980.8	\$1,175.9	\$1,171.4	\$1,108.8	\$1,081.2
Eligible for LSBRP Procurement (% of Total)	\$85.8 (9%)	\$39.5 (4%)	\$125.1 (15%)	\$215.1 (22%)	\$299.2 (31%)	\$312.5 (27%)	\$312.2 (27%)	\$375.5 (34%)	\$430.6 (40%)
Expenditure to LSBRP-Registered Businesses (% of Eligible)	\$12.7 (15%)	\$8.0 (20%)	\$29.7 (24%)	\$52.6 (25%)	\$73.7 (25%)	\$74.8 (24%)	\$75.7 (24%)	\$93.4 (25%)	\$115.4 (27%)

Source: OLO, Office of Procurement, LSBRP Annual Reports FY10-FY18.

Contracts Exempted from the LSBRP, FY10 – FY18. County contracts totaling \$10 million or less in value are assumed to be eligible for LSBRP designation. However, certain types of contracts are also exempt from the Program. These exemptions impact the overall availability of annual contracting dollars to local, small businesses (full list of exemptions included in Chapter 1). As shown, two categories account for the majority of all LSBRP-exemptions (Table 7):

- **Pre-existing Contracts.** Many County contracts are for terms longer than one-year, often three to five years. A contract is counted once in the year of the award and is not counted in the following years. From FY10-FY18, this is the largest exemption category with spending ranging from 32 percent (FY11) to a high of 87 percent (FY18).
- **Procurements exceeding \$10 million.** Spending in this category is the second highest as many of these contracts are for County construction projects. In FY18, procurements that exceeded \$10 million accounted for 9 percent of spending.

Table 7 also shows contract awards exempted from the LSBRP because no LSBRP businesses was deemed qualified. Spending in this category has declined 90 percent from FY10 to FY18 (from FY10 \$111.2 million to \$11.6 million in FY18).

Table 7. Procurements Exempted from the LSBRP, FY10 – FY18

Exemption Categories	FY10	FY11	FY12	FY13	FY14	FY15	FY16	FY17	FY18
Total Exemptions	\$853.9 (100%)	\$972.2 (100%)	\$677.2 (100%)	\$714.9 (100%)	\$659.0 (100%)	\$849.6 (100%)	\$847.4 (100%)	\$941.6 (100%)	\$836.9 (100%)
Pre-existing contract	\$493.3 (58%)	\$307.8 (32%)	\$465.3 (69%)	\$452.6 (63%)	\$407.5 (62%)	\$412.8 (49%)	\$377.4 (45%)	\$669.1 (71%)	\$724.1 (87%)
Procurement exceeds \$10 million	\$73.8 (9%)	\$561.9 (58%)	\$163.4 (24%)	\$210.4 (29%)	\$172.6 (26%)	\$338.3 (40%)	\$383.9 (45%)	\$228.6 (24%)	\$77.9 (9%)
No LSBRP vendor deemed qualified	\$111.2 (13%)	\$23.4 (2%)	\$18.3 (3%)	\$9.8 (1%)	\$6.0 (1%)	\$24.1 (3%)	\$13.4 (2%)	\$10.6 (1%)	\$11.6 (1%)
All other exemptions	\$175.3 (21%)	\$79.1 (8%)	\$30.2 (4%)	\$42.2 (6%)	\$72.9 (11%)	\$74.5 (9%)	\$72.7 (9%)	\$33.4 (4%)	\$23.3 (3%)

Source: OLO, Office of Procurement, LSBRP Annual Reports FY10-FY18.

B. Overview of All LSBRP Procurement Awards, FY11 to FY18³⁰

Table 8 shows awards to LSBRP-registered businesses and non-LSBRP businesses from FY11 to FY18. Of note, totals represent actual awards which is different than total LSBRP eligible procurements presented in Section A. As shown, awards to LSBRP-registered businesses totaled \$115.4 million in FY18 (\$47.2 million from LSBRP-reserved contracts and \$68.2 million from LSBRP-exempt contracts). Specifically examining LSBRP-eligible awards, non-LSBRP businesses receive the majority of awards, with 75 percent of total LSBRP-eligible awards going to non-LSBRP businesses in FY18. Further, focusing on LSBRP-exempt awards, approximately 8 percent of exempted procurements were awarded to an LSBRP-registered business in FY18 (\$68.15 million out of \$905.1 million).

Table 8. Breakdown of Contract Awards to LSBRP-Registered and Non-LSBRP Businesses (FY11 – FY18)*

	FY11	FY12	FY13	FY14	FY15	FY16	FY17	FY18
Total LSBRP-Eligible Awards	\$39.5	\$124.9	\$215.1	\$299.2	\$312.4	\$308.8	\$99.0	\$176.1
Awarded to LSBRP	\$8.0	\$29.6	\$52.6	\$73.7	\$74.8	\$75.7	\$25.3	\$47.2
Awarded to Non-LSBRP	\$31.5	\$95.3	\$162.5	\$225.5	\$237.6	\$233.1	\$73.7	\$128.9
Total LSBRP-Exempt Awards	\$1,011.2	\$719.3	\$759.0	\$681.6	\$863.4	\$859.2	\$1,009.7	\$905.1
Awarded to LSBRP	\$38.9	\$42.9	\$44.1	\$22.6	\$13.8	\$11.8	\$68.1	\$68.2
Awarded to Non-LSBRP	\$972.3	\$676.4	\$714.9	\$659.0	\$849.6	\$847.4	\$941.6	\$836.9

Source: OLO, Office of Procurement, LSBRP Annual Reports FY10-FY18

*Office of Procurement began reporting this data annually in FY11.

C. Characteristics of LSBRP-Awarded County Contracts³¹

From April 2003 to June 2018, data from the Office of Procurement show that the County awarded 557 contracts to LSBRP-registered businesses. Of these, 394 of which were solicited between January 2010 and June 2018 and are the focus of this analysis.³² Table 9 shows the distribution of LSBRP-reserved and LSBRP-exempt contracts by year. Of the 394 contracts awarded to LSBRP-registered businesses, 83 percent were reserved

³⁰ Office of Procurement staff report that in 2011 the LSBRP Annual Report was updated to include annual data on awards to LSBRP-registered and non-LSBRP businesses. This data is not available for fiscal years prior to FY11.

³¹ The Office of Procurement provided OLO with an Excel file containing data on LSBRP-registered businesses awarded County contracts between April 2003 and June 2018 (both LSBRP-reserved and LSBRP-exempt contracts based on solicitation posting date). The dataset contains contract number, name of LSBRP-business awarded the contract, encumbrance amount, contract type, solicitation date and description, number of bidders (tracked after 2010), and whether the contract was reserved under the LSBRP. To gather data on business characteristics (i.e., size, business type, LSBRP-status, and address), OLO used the LSBRP Business Registry, October 2018 (see full description in Chapter X). Of note, this data was not available for 24 LSBRP-registered businesses awarded County contracts and included in the dataset describe above.

³² OLO excluded 83 contracts with missing solicitation data. Additionally, the dataset contained 80 contract solicitations posted between April 2003 and December 2009.

Local Small Business Reserve Program

through the LSBRP process (328 contracts) and 17 percent were exempt from the LSBRP and awarded through the regular procurement process (66 contracts).³³

Table 9. Total Number of Contracts Awarded to LSBRP-Registered Businesses by Year

	2010	2011	2012	2013	2014	2015	2016	2017	2018*	Total
LSBRP Reserved	34	50	26	43	38	26	52	44	15	328
LSBRP-Exempt**	4	10	9	5	7	18	8	3	2	66
Total	38	60	35	48	45	44	60	47	17	394

*Data through June 2018.

** These represented contracts awarded through the regular procurement process.

Source: OLO, Office of Procurement, Awards to LSBRP-Registered Businesses provided in November 2018.

Types of Goods or Services Provided. Since 2011, the Office of Procurement tracks the number of bidders for LSBRP-reserved and LSBRP-exempt RFP and IFB solicitations. Table 10 shows the types of contracts with the most bidders for both LSBRP-reserved and LSBRP-exempt solicitations.

Table 10. LSBRP-Reserved Contracts with the Most Bidders Submitting Bids or Proposals

LSBRP-Reserved Contracts	LSBRP-Exempt Contracts
<ul style="list-style-type: none"> • LSBRP Consulting and Technical Services • Parking Garage Sweeping and Miscellaneous Cleaning Services • Parking Facilities Miscellaneous Cleaning Services • Time and Material Carpentry and Painting Services • Marketing Services for Transit Services • Temporary Administrative Support 	<ul style="list-style-type: none"> • Professional Staffing Services for the Department of Health and Human Services • Landscaping and Grounds Maintenance Services • Fire Department Tools, Equipment, Hoses and Appliances • Courier and Delivery Services • Task Order Contracts for Construction Management Services • Construction Original Equipment Manufacturer Replacement Parts and Repair Service

Source: OLO, Office of Procurement, and Awards to LSBRP-Registered Businesses data provided in November 2018.

Contract Amount Awarded. OLO examined individual awards encumbered for both LSBRP-reserved and exempt contracts awarded to LSBRP-registered businesses. Table 11 presents data from 2015 and 2017 (last three years of complete data) (Appendix A contains full data table from 2010 – 2017). For each year, Table 11 displays the average, median, maximum, and minimum award to a LSBRP-registered business. Across all three years, the data show:

- The average award for LSBRP-reserved and exempt contracts is similar – ranging from \$340,000 to \$1 million for LSBRP-reserved contracts and \$319,000 to \$1.4 million for LSBRP-exempt contracts.
- The median award is much lower – ranging from \$107,000 to \$207,000 for LSBRP-reserved contracts and \$29,000 to \$115,000 for LSBRP-exempt contracts.

³³ This total excludes 83 contracts where solicitation data was missing. Additionally, the data set contains 80 contract solicitations posted between 2003 (before the LSBRP started) to 2009. To align this chapter with prior data chapters these contracts were excluded.

Table 11. Characteristics of Contracts Awarded to LSBRP-Registered Businesses (2015-2017)

Awards*	2015		2016		2017	
	LSBRP-Reserved	LSBRP-Exempt	LSBRP-Reserved	LSBRP-Exempt	LSBRP-Reserved	LSBRP-Exempt
Average Award	\$1,047,976	\$736,986	\$340,027	\$319,398	\$531,493	\$1,400,316
Median Award	\$207,797	\$115,656	\$107,252	\$99,999	\$109,005	\$29,632
Maximum Award	\$6,315,121	\$3,500,401	\$4,035,093	\$1,526,081	\$5,955,021	\$8,394,579
Minimum Award	\$15,000	\$10,000	\$10,000	\$20,000	\$10,000	\$19,666

Source: OLO, Office of Procurement, and Awards to LSBRP-Registered Businesses data provided in November 2018.

*Represents individual encumbered amounts. There may be multiple encumbered amounts for each contract.

D. Characteristics of LSBRP-Registered Businesses Doing Business with County Government

Between January 2010 and June 2018, a total of 231 LSBRP-registered businesses were awarded a County contract (LSBRP-reserved and LSBRP-Exempt) (Table 12). Using the October 2018 LSBRP Business Registry dataset, OLO found business size data (number of employees and average sales) for 207 of the 231 businesses.³⁴ As noted, businesses must renew their LSBRP-registration every three years and available data reflects registration data as of October 2018. As such, business size data may not reflect actual size for the year the contract was solicited. Generally, the data shows that of the 207 LSBRP-registered businesses awarded County Contracts:

- 16 percent registered with the Program in the last three years, 2015-2018 (33 out of 207 businesses).
- Three-quarters provide services (154 out of 207 businesses).
- With the exception of manufacturing, LSBRP-registered businesses awarded County contracts are larger both in number of employees and gross sales compared to all LSBRP-registered businesses.³⁵

Table 12. Characteristics of LSBRP-Registered Businesses Awarded County Contracts

LSBRP-Registered Businesses Awarded County Contracts between 2010-2018 (business size data available as of October 2018)				All LSBRP-Registered Businesses, October 2018	
Business Type	No. of businesses*	Avg. No. of Employees	Avg. Sales (in millions)	Avg. No. of Employees	Avg. Sales (in millions)
Construction	16	29	\$7.8	12	\$3.4
Manufacturing	7	9	\$1.3	21	\$3.1
Retail	10	20	\$9.7	8	\$3.3
Services	154	18	\$1.9	11	\$1.2
Wholesale	6	12	\$4.8	6	\$3.0
2 or More	14	21	\$2.6	10	\$1.5
Total	207	--	--	--	--

*includes both active and disqualified businesses

Source: OLO, Office of Procurement, and Awards to LSBRP-Registered Businesses data provided in November 2018.

³⁴ Data for 24 businesses were not available in the October 2018 LSBRP-registered Business dataset. OLO excluded these 24 businesses from the analysis.

³⁵ Of those businesses included in the Office of Procurement data obtained in October 2018.

Local Small Business Reserve Program

Highest Total Awards to LSBRP-Registered Businesses – January 2010 to June 2018. OLO also examined the top 10 LSBRP-registered businesses awarded the highest dollar value in both LSBRP-reserved and LSBRP-exempt contracts from January 2010 to June 2018. Table 13 shows:

- **All Awards to LSBRP-Registered Businesses.** The County awarded \$369.7 million to 231 LSBRP-registered businesses. Of which \$197.9 million was awarded to 10 businesses, 54 percent of all awards.
- **LSBRP-Reserved Awards Only.** Similarly, examining LSBRP-reserved awards only, ten LSBRP-registered businesses were awarded 53 percent of awards (\$145.2 million out of \$271.6 million). The remaining \$126.4 million was awarded to 188 LSBRP-registered businesses.
- **LSBRP-Exempt Awards Only.** Examining LSBRP-exempt awards only, ten LSBRP-registered businesses accounted for 85 percent of awards (\$83.5 million out of \$98.1 million). The remaining \$14.6 million was awarded to 40 LSBRP-registered businesses.

Table 13. Total Awards by LSBRP-Reserved and LSBRP-Exempt Contracts (\$ in millions)

	All Awards to LSBRP-Registered Businesses			LSBRP-Reserved Awards to LSBRP-Registered Businesses			LSBRP-Exempt Awards to LSBRP-Registered Businesses		
	\$	%	No. of Businesses	\$	%	No. of Businesses	\$	%	No. of Businesses
Total	\$369.7	100%	231	\$271.6	100%	198	\$98.1	100%	50
Top 10 LSBRP-Registered Businesses	\$197.9	54%	10	\$145.2	53%	10	\$83.5	85%	10
Remaining LSBRP-Registered Businesses	\$171.8	46%	221	\$126.4	47%	188	\$14.6	15%	40

Source: OLO, Office of Procurement, and Awards to LSBRP-Registered Businesses data provided in November 2018.

Top 10 LSBRP-Registered Businesses Awarded Highest Dollar Value. As shown above, the County awarded \$369.7 million to 231 LSBRP registered businesses between January 2010 and June 2018. Of which 53 percent was awarded to 10 businesses. Table 14 incorporates business size data from the LSBRP Business Registry (October 2018) and shows that these businesses are larger compared to all LSBRP-registered businesses awarded County contracts.

Table 14. Top 10 LSBRP-Registered Businesses with Highest Total Awards

Name	Total Awards	No. Employees	Avg. Sales (in millions)	Business Type
Athena Consulting	\$34.41	200	\$8.8	Services
Highway and Safety Services, Inc.	\$30.46	128	\$11.5	Services, Construction
Electric Advantage, Inc.	\$25.57	22	\$6.0	Construction
Baldwin Line Construction of Maryland, Inc.	\$22.16	43	\$9.1	Construction
O'Connell & Lawrence, Inc.	\$17.79	73	\$5.9	Services
EAI Security Systems, Inc.	\$15.18	28	\$6.0	Services
Henley Construction Co., Inc.	\$14.53	Data Not Available		Construction
CDCI, Inc.	\$14.37	19	\$11.9	Construction
Earn Contractors	\$13.08	27	\$2.9	Construction
Bradley Technologies, Inc.	\$10.41	201	\$7.4	Services
Total	\$ 197.96	--	--	--

Source: OLO, Office of Procurement, LSBRP Business Registry dataset as of October 2018, and Awards to LSBRP-Registered Businesses provided in November 2018.

E. Overview of LSBRP-Graduated Businesses and those Nearing Graduation

Since 2006, two businesses have reached \$10 million in cumulative awards and 10 County contracts program participation cap and have “graduated,” with six other businesses approaching graduation. Graduated businesses or those close to graduation are either construction or services businesses. Of the businesses close to graduation, they are close to or surpassing the \$10 million limit but are not at the 10-contract limit (Table 15).

Table 15. Characteristics of Certified Companies Nearing or Graduated from the LSBRP Compared to All LSBRP-Registered Vendors

Company	Avg. Sales - Prior 3 Years (in millions)	No. of Employees	Cumulative Dollar Value of County Contracts (in millions)	No. of Contracts under the LSBRP
Graduated from the LSBRP				
Colossal Contractors, <i>Construction</i>	\$10.0	39	\$10.1	16
Highway and Safety Services, <i>Service/Construction</i>	\$11.5	128	\$30.0	12
Active, Full Certified LSBRP Businesses Nearing Graduation				
<i>Construction Businesses</i>				
CDCI, Inc.	\$11.9	19	\$8.2	5
Earn Contractors	\$2.9	27	\$10.0	5
Electric Advantage, Inc.	\$6.0	22	\$20.0	4
<i>Services Businesses</i>				
CT Stanley and Sons	\$3.3	6	\$10.4	3
EAI Security Systems	\$6.0	28	\$10.0	3
EEPEX, Inc.	\$2.9	3	\$9.9	6

Source: OLO, Office of Procurement, Montgomery County Council Government Operations Committee, Worksession Memorandum, January 24 2018, available at https://montgomerycountymd.granicus.com/Viewer.php?view_id=169&dip_id=14434&meta_id=148234

Local Small Business Reserve Program

Chapter 4. Feedback from the Business Community and County Staff

To gain feedback on the County's Local Small Business Reserve Program, OLO conducted interviews with Montgomery County businesses, business groups, and County Government departments. This chapter summarizes feedback heard across the following six topic areas:

- LSBRP Registration – Business Capacity and Validation of Commodity Codes;
- LSBRP Success and Graduation;
- Department Processes and Bid Evaluation;
- Performance Reporting;
- LSBRP Marketing and Training; and
- Program Improvements.

A. LSBRP Registration – Business Capacity and Validation of Commodity Codes

- ***Business community stakeholders report that the LSBRP registration process is an additional layer of complexity for small businesses seeking to do business with the County.***

A repeated concern among the business community is the number of time-consuming processes that a business must go through to participate in not only the LSBRP, but other regional small business programs. There is a misconception among businesses that once a business is certified as a small business with the State of Maryland, it is also certified to participate in the LSBRP. To address this issue, stakeholders recommended aligning the County's LSBRP business size standards with the State of Maryland's Small Business Reserve Program and/or the Federal 8(a) Program. To streamline the process, the County could permit a business to submit these alternative certifications. Stakeholders also indicate that businesses are often unaware that other County agencies (e.g., Montgomery County Public Schools and Montgomery College) and municipalities located in the County have their own procurement processes.

- ***Stakeholders report that business size standards are threshold requirements to LSBRP-eligibility and do not determine capacity to perform work. There is a need for an additional registration step to verify business capabilities.***

Stakeholders report that businesses size requirements do not capture a business' capability to perform the requested work; rather businesses should have a level of capacity (e.g., staffing and revenue) and have appropriate insurances/licenses to manage County contracts. For example, to expand contract opportunities for local, small businesses, the County unbundled the government's custodial services contract into regions. DGS reported that there are eight property managers for about 400 County properties, or about 50-60 properties per manager. Even at this reduced number of properties, staff report that a business must have enough capacity to service 50-60 properties and meet contract performance requirements. Considering this, stakeholders would like to see a more advanced registration process that would include business capabilities statements and licenses/insurances held by qualifying businesses.

- ***Commodity codes, representing goods or services provided by LSBRP-registrants are not reviewed as part of the application process. This increases administrative burden on department staff and reduces efficacy of targeted marketing of LSBRP-opportunities.***

As part of the application process, businesses self-select commodity codes at registration to indicate services or goods offered. Businesses may, and often do, select multiple codes; however, stakeholders report that these codes are not verified through the registration process. However, department staff rely on these codes to:

- Identify registered/certified businesses that could respond to solicitations;
- Request an exemption based on lack of registered/certified businesses; or
- Send out Requests for Interest to businesses to market upcoming solicitations.

County staff report that the administrative time to research and evaluate capabilities of local, small businesses is significant. For example, a search within the Central Vendor Registration System might yield 10 businesses under one commodity code but only one or two businesses might be capable of performing the work requested. In addition, staff and businesses report that commodity code categories are overly broad and may result in targeted marketing emails being sent to businesses who do not perform the work. Stakeholders reported requiring, as part of the registration process, capability statements, examples of past performance, and/or required work history in each commodity code would assist with vetting of codes selected by businesses.

B. LSBRP Success and Graduation

- ***Stakeholders reported several common characteristics that helped enable LSBRP success and factors that presented challenges.***

For some companies, the LSBRP provided contracting opportunities in the services and construction fields, which enabled their businesses to grow in a sheltered marketplace. However, some businesses also reported challenges that inhibited success in the LSBRP. The following summarizes the factors that both helped and hindered success in the LSBRP.

Reported Success Factors	Reported Challenges to Navigating the Program
<ul style="list-style-type: none"> • Partnering with a larger company to gain experience contracting with the County; • Managing an existing County contract prior to the start of the LSBRP in 2006; • Prior certification as a Minority-Female-Disabled Owned (MFD) Business with Montgomery County Government with work history; • Resources and knowledge of County contracts; and • Networking and established relationships with County staff. 	<ul style="list-style-type: none"> • Lack of available staff to track County contracts and submit bid/proposal when opportunity is posted; • Proposal work requires extensive staff time, is often uncompensated, and the benefit is not clear; • Solicitation advertisements are overly broad and do not always apply to goods and services offered; • Lack of established relationships or network with County staff; and • Insurances and certifications may be cost prohibitive for smaller businesses.

Local Small Business Reserve Program

- ***Many stakeholders were not aware of the 10 contracts or \$10 million in cumulative awards LSBRP participation cap or where they stand towards meeting/exceeding this requirement.***

While many stakeholders were familiar with the LSBRP business size standards and that exceeding those standards would result in disqualification from the Program, many stakeholders were not familiar with the 10 contracts and \$10 million in cumulative awards cap. Additionally, there was a lack of clarity among stakeholders as to the type of contracts qualifying towards the limit (e.g., new contract, contract renewals, task orders, etc.).

Further, stakeholders were not aware of their standing in terms of approaching the limit. In general, stakeholders did not know where to find this information, as data on cumulative contract awards and number of contracts by businesses is not readily available. In addition, the lack of clarity surrounding what types of contracts count towards the maximums, limits a business' ability to independently track their own progress.

The Office of Procurement reports that it provides a letter to a business when it has surpassed the cap and is no longer eligible to participate. Of the two businesses that "graduated," one noted that they received this letter; however, without the ability to track progress, this letter comes as a surprise.

C. Department Processes and Bid Evaluation

- ***County staff reported that the existing vendor registry system is outdated, increasing administrative time to utilize it and decreasing ability to market solicitations to available vendors.***

When registering, businesses provide email addresses to receive communication about the LSBRP and upcoming solicitations. However, County staff report that approximately 10-12 percent of vendor emails are returned as undeliverable, thereby limiting the pool of potential businesses.

Further, staff report that the commodity codes used to identify vendors are only as good as the search criteria used to identify the codes. For example, commodity codes related to tree services must be searched as "tree" and "trees," which increases the time required to search for potential vendors. Along with this, staff and businesses report that the existing commodity codes are overly broad and result in the solicitation being sent to businesses who do not perform the requested work. Staff recommend a more narrowed list of commodity codes to better target applicable businesses and re-evaluation of the vendor system to ensure available businesses are active.

- ***While stakeholders acknowledge that contracts with local, small businesses may cost more, stakeholders would prefer to incorporate an upfront price reasonableness decision to the review of LSBRP-reserved contract bids.***

All County procurements go through evaluation to determine whether the price paid is fair and reasonable. However, County government stakeholders reported incidents where due to a lack of competition, departments are paying more for services or goods through LSBRP contracts. While staff acknowledge the important policy goals of the Program and expect some price increases, many report bids in excess of what department experts considered reasonable. Stakeholders recommended establishing a set price reasonableness, where bids or proposals must be within a certain percentage of a price on the open market. Alternatively, stakeholders recommended price matching on the top 100 goods purchased by the County to open market prices.

- ***County Government stakeholders would like to see the LSBRP-solicitation process occur at the same time as open market contracts, to reduce the timeframe to procure goods and services.***

County Government stakeholders report that the staging of the LSBRP process adds significant time to the procurement process. Currently, a solicitation must first go through the LSBRP process. If the department receives a weak or no response, staff must then request an LSBRP exemption and re-issue the solicitation to receive a competitive response (2 or more solicitations). Even when an initial search for eligible vendors based on commodity codes yield a pool of LSBRP-registered businesses, it is not a guarantee that these businesses will respond to the solicitation. For example, DEP reserved an aboveground stormwater maintenance contract of \$4.5 million for LSBRP solicitation - there were seven registered businesses, based on commodity codes, that could have submitted a bid. However, none of these vendors did and DEP had to re-issue the solicitation. Stakeholders reported that it would be advantageous to streamline the process so that the solicitation could be posted once, with LSBRP-vendors receiving a preference or points over comparably submitted bids.

D. Performance Reporting

- ***Many external stakeholders reported a need for additional performance metrics focusing on outcomes for businesses participating in the LSBRP.***

Stakeholders reported a lack of clarity about LSBRP business results, creating ambiguity about program goals and performance measures, which negatively impacts the perception of the Program. For example, several stakeholders question whether the purpose of the Program was to increase capacity of many businesses or ensure growth among a few businesses which could successfully compete on the open market. Stakeholders indicated opportunities to improve Program perception through enhanced performance measures and reporting. However, several stakeholders reported that before improvements can be made, program goals need to be clearly defined.

Stakeholders reported that currently the LSBRP annual report provides key statistics including the number of businesses registered/certified, number of events hosted/attended, and total County and department awards to LSBRP businesses, however, these measures do not appear to be aligned with the legislative goals of the Program. Possible improvements recommended by stakeholders include:

- Number, size and location of LSBRP-registered businesses receiving County contracts;
- Number of contracts and dollar value awarded to local, small businesses (including those less than \$100,000);
- Outcomes from LSBRP events (e.g., did a business submit a bid or proposal, was it successful);
- Business outcomes for those actively participating and managing County contracts (e.g., did the business add staff or resources; has the business increased revenue; did the business secure a contract in a neighboring jurisdiction, with the State, or Federal government, or is the business still in operation); and
- Contract performance metrics, including number of defaults.

Local Small Business Reserve Program

- ***Stakeholders report that the County needs to set clear expectations for the number, type, and dollar value of contracting opportunities available through the LSBRP.***

Stakeholders reported that there was a lack of communication and knowledge of expectations from the County. Stakeholders reported that there needs to be better communication regarding several aspects of the Program, including:

- Reasons for LSBRP-exempt categories;
- Percent of work required to be completed by the contract prime;
- MFD requirements; and
- Number and types of solicitations available.

Business stakeholders report that many go through the certification process, only to find that there are no contracting opportunities available or that what is available is not worth the time and resources to develop bids/proposals. Additionally, while awards are posted on the County's website, award status is often unknown. If a business bids on a contract, there may not be further notice on the status sent directly to the bidder.

E. Program Marketing and Training

- ***Since 2006, multiple departments have managed the LSBRP. Stakeholders report that DBRC manages the Program well and is a great asset to businesses. However, over the years, marketing of the Program has weakened.***

When the LSBRP first started, the Department of General Services managed the Program and the former Department of Economic Development was responsible for marketing. Since the dissolution of DED, both aspects of the LSBRP are managed by the Office of Procurement. Stakeholders all agreed that DBRC staff are excellent resources for businesses and are successful at managing the compliance piece of the Program. However, both County Government and external stakeholders report that the Program's marketing component is lacking. Some specific concerns include:

- There is a lack of awareness of how the Program is beneficial for businesses.
- Businesses in mid-and up-county find that County procurement events, including LSBRP events, are often held in the Silver Spring area, limiting the ability to participate due to event timing and traffic concerns.
- There needs to be a stronger relationship with the Office of Procurement to assist with recruiting businesses to participate and marketing upcoming opportunities.

Additionally, at present, a few businesses reported an adversarial relationship with the Office of Procurement which serves as both the proponent of small businesses and manages the contracting process. For example, businesses with issues during the solicitation and contracting process are left without an impartial party to submit questions or complaints due to potential biases in future contracting opportunities (real or perceived). Stakeholders suggested centralizing business services in the County for Program marketing and resources, while the Office of Procurement manages compliance of the LSBRP. In addition, creating a business ombudsman as a resource for questions or to submit complaints about the procurement or other County processes.

- ***Many stakeholders would like the County to take a more proactive approach to marketing upcoming County procurements.***

OLO met with MCEDC, the Montgomery County Chamber of Commerce, regional chambers and business groups, and staff from small business procurement programs in other jurisdictions. All reported options for improving marketing of LSBRP and reserved contracts. Including:

- Maintaining communication of upcoming County spending trends (e.g., publication of upcoming solicitations for the current year by department and five-year spending trends);
 - Increasing opportunities for businesses to meet department procurement staff and learn about departments' future needs and trends; and
 - Expanding options to create pilot programs to meet County needs and opportunities for local investment in area businesses.
-
- ***Stakeholders indicated a need for more programming to support businesses that have grown in the LSBRP and become mid-size, local businesses in the County.***

Stakeholders reported a perception that businesses are no longer small once being awarded \$10 million in County contracts. However, many businesses expressed facing ongoing difficulties competing for contracts on a competitive market. Stakeholders favorably spoke of the LSBRP and its ability to create opportunities for small businesses. However, those that are close to or have graduated report that more could be done in terms of training and support for growing businesses. Without these supports, businesses have reported looking for work outside Montgomery County or examining changing business operations to stay in the LSBRP.

F. Program Improvements

- ***Stakeholders widely agreed that the LSBRP is a good program; however, many listed improvements that could streamline processes, reach more businesses, and encourage economic growth.***

At the outset, many stakeholders agreed that Program goals need to be aligned with trends in today's marketplace and opportunities exist to promote growth in small and mid-size local businesses:

- *Increase understanding of the types of businesses located in the County and determine which types of contracts should be reserved for the Program.* To be a successful program, the LSBRP needs to align County procurements with eligible small businesses. Stakeholders noted several challenges in establishing a pool of eligible businesses to compete for a LSBRP-reserved contract including location requirements of neighboring local, small procurement programs and County zoning requirements that limit types of businesses available (e.g., construction companies are often located outside of the County).
- *Encourage reciprocity of local, small business designation within the County.* Currently, the LSBRP is a County government program with other agencies and municipalities operating separate procurement processes (e.g. Montgomery County Public Schools or Montgomery College, City of Rockville). Stakeholders would like to see reciprocity among various agencies and municipalities to increase available LSBRP opportunities.
- *Establish a tiered program to increase ability to contract to local businesses.* Several stakeholders recommended implementing a tiered contracting approach. Under this approach, if a department did

Local Small Business Reserve Program

not receive competitive bids from a registered local, small business, staff could award the contract to another certified business in priority order. An example of tiered approach was provided by the DEP staff:

- Tier 1 – businesses that meet existing LSBRP criteria;
 - Tier 2 – regional small businesses (commutable distance to Montgomery County) with physical location in Frederick County, the District of Columbia, Prince George’s County, with LSBRP sales and revenue limits;
 - Tier 3 – local, mid-level businesses, location restricted to Montgomery County, this would need to establish new business size standards; and
 - Tier 4 – regional business, but not a small business.
- *Prioritize contract awards under \$10,000 to local, small businesses.* Small dollar value contracts are essential to small businesses and these contracts would allow businesses to gain experience contracting with the County.
 - *Require subcontracting goals specifically for local, small businesses.* Stakeholders report that on large County contracts (exceeding \$10 million) there is a subcontracting goal (not a requirement) with local businesses (not local, small businesses). There is no subcontracting goal or requirement for LSBRP-registered businesses regardless of dollar value. Stakeholders caution that adding this requirement may result in a restrictive environment, may increase costs, and may result in changing business operations (self-performance of work versus subcontracting).

Chapter 5. Small Business Programs in Other Jurisdictions

OLO compared small business procurement programs found in other jurisdictions in the region - the State of Maryland, Baltimore County (MD), Prince George's County (MD), the Washington Suburban Sanitation Commission (WSSC), Fairfax County, and the District of Columbia. Overall, OLO found several similarities among the programs reviewed, however variation exists. The following table provides a very basic overview of the programs – there are additional requirements in many of the jurisdictions.

Table 16. Summary of Key Program Characteristics

Jurisdiction	Size Requirement	Location Requirement	Reserved Contract Dollars	Required Spend
Montgomery County	30 -100 Employees or \$5-\$14 Million Sales (Based on Business Type)	Yes	Less than \$10m	20% of Department Spending
State of Maryland	25-100 Employees or \$2-\$10 Million Sales (Based on Business Type)	No	Greater than \$200,000 reviewed for set-aside for small businesses; Strategic Plan developed for procurements under \$200,000	15% of Department Spending
Baltimore County	Certified by Select Federal or State Programs	No	Less than \$25K for construction contracts; Less than \$500K for service contracts	n/a
Prince George's County	Certified by Select Federal or State Programs	Yes	Total value equal to or less than \$500K	"Best Effort" for 30% County-based Small Businesses
Washington Suburban Sanitation Commission	Certified by Select Federal or State Programs	Yes	Estimated Value of \$1m or Less	n/a
District of Columbia	\$5-\$300 Million in Gross Sales	Yes	\$250k or Less	50% of Department Spending

It's important to note that under Virginia State law, Fairfax County may not establish set aside programs for small businesses; however, stakeholders report that departments are encouraged to contract with local businesses and procurement has numerous networking events held throughout the year to connect local businesses with department buyers.

The remainder of this chapter provides an overview of the similarities and differences of the small business procurement programs reviewed across the following four categories. More detailed information for each jurisdiction, including Fairfax County, can be found in Appendix B.

- Registration Process;
- Program Eligibility;
- Reserved Contract Dollar Amount and Required Government Spend; and
- Select Program Components.

Local Small Business Reserve Program

A. Registration Process

All jurisdictions reviewed offer a government procurement program that targets procurements to small businesses (see Section B for eligibility criteria). Businesses must be certified in each jurisdiction they contract with. Prince George’s County and the District of Columbia operate tiered programs to offer contracting opportunities or benefits to a range of business classes. Table 17 lists the business classes targeted by these programs (definitions found within each case study). In the District of Columbia, a business may be certified in multiple categories if all criteria are met.

Table 17. Prince George’s County and District of Columbia Tiered Business Categories

Prince George’s County-Based Business Certification Classifications
In addition to County-Based Small Business Certification, businesses may be certified as a: <ul style="list-style-type: none">• County-Based Non-Profit; or• County-Located Business.
District of Columbia Certified Business Enterprise
In addition to being a Certified Small Business Enterprise, businesses may be certified as a: <ul style="list-style-type: none">• Resident Owned Business Enterprise;• Business Located in Enterprise Zone;• Long Time Resident Business Enterprise;• Veteran-Owned Business Enterprise; and• Local Manufacturing Business Enterprise.
Source: OLO, Stakeholder interviews, District of Columbia Department of Small and Local Business Development, available at https://dslbd.dc.gov/page/get-certified ; Prince George’s County Government, County Based Business Certification, available at https://www.princegeorgescountymd.gov/1262/County-Based-Business-Certification .

B. Program Eligibility

To participate in targeted procurement programs, businesses must fall below a maximum business size (number of employees and/or gross sales). Additionally, a business may be required to be located in a jurisdiction to participate.

1. Business Size: Number of Employees and Gross Sales

Similar to Montgomery County, the State of Maryland defines eligibility for their Small Business Reserve Program by maximum number of employees or average gross sales by business type. Table 18 shows a comparison between the State of Maryland’s Small Business Reserve Program business size requirements and Montgomery County’s LSBRP.

Table 18. Maryland and Montgomery County Business Size Requirements (2019)

Business Type	Maryland Small Business Reserve Program Requirements			Montgomery County Local Small Business Reserve Program Requirements	
	Employee Limit	Prior 3 Years' Average Sales Maximum		Employee Limit	Prior 3 Years' Average Sales Maximum
Construction	50	\$7 million	OR	50	\$14 million
Manufacturing	100	\$2 million		40	\$14 million
Retail	25	\$3 million		30	\$5 million
Service	100	\$10 million		100	\$10 million
Wholesale	50	\$4 million		30	\$5 million
Architectural & Engineering	100	\$4.5 million		--	--

Source: OLO, Maryland Governor's Office of Small, Minority, & Woman Business Affairs, Small Business Reserve Program, available at <https://goma.maryland.gov/Pages/sbr-Program.aspx>; Montgomery County COMCOR 11B.65.01.03.

Baltimore County, Prince George's County, and the Washington Suburban Sanitation Commission (WSSC) do not have separate definitions of business size, but rather allow businesses to submit either State certification or other entity certification to qualify (e.g., Federal Small Business Administration Guidelines, Veterans Affairs Small and Veteran Business Programs, etc.).³⁶

Federal Small Business Administration Business Size Guidelines. The Small Business Administration defines business size by the North American Industry Classification System (NAICS). Each industry has a NAICS code that correlates to size standards by the number of employees or annual receipts. Generally, federal small business size guidelines are 500 employees or less for most manufacturing and mining industries and \$7.5 million in average annual receipts for many nonmanufacturing industries. The District of Columbia uses these guidelines with some exceptions (see Appendix B).³⁷

2. Business Location

Similar to the LSBRP, Prince George's County, WSSC, and the District of Columbia require a business to be located within the jurisdiction to be certified. Each jurisdiction defines "local" differently, with businesses providing proof of location during the registration/recertification process (Table 19). The State of Maryland and Baltimore County do not have a location requirement.³⁸

³⁶ Stakeholder interviews; Of note, WSSC reviews prior contract awards. To participate a business cannot have received more than \$2 million in WSSC contract payments as a prime or sub-contractor, in direct open competition in the year preceding the application date.

³⁷ Stakeholder interviews, District of Columbia, Department of Small and Local Business Development, Certification FAQs, available at <https://dslbd.dc.gov/page/certification-faqs>.

³⁸ Stakeholder interviews.

Local Small Business Reserve Program

Table 19. Definitions of “Local” for Eligibility for Small Business Procurement Programs

Jurisdiction	Definition of “Local”
Montgomery County	A business must have its principal place of business in Montgomery County, either its physical location is in Montgomery County or if located both in and outside of Montgomery County, the county-based business accounts for over 50 percent of total employees or gross sales.
Prince George’s County	<p>A business may be either County-Based or County-Located. However, a County-Based business receives more preference points than County-Located business.</p> <ul style="list-style-type: none"> • County-Based Business must operate for at least 12 months in the County and (1) have more than 50 percent of full-time employees be County residents; or (2) owners of more than 50 percent of the businesses are County residents; or (3) more than 50 percent of the assets of the business, excluding bank accounts, are located in the County; or (4) more than 50 percent of the total sales or other revenues of the business are derived from the transactions of the business in the County. • County-Located Business must operate for at least 12 months and have a County office with (1) at least five full-time equivalent employees in the County office; or (2) at least three full-time equivalent employees in the County office with at least two of the FTEs being County residents; or (3) an ownership interest in the building containing the County office and have at least three employees in the County office.
WSSC	A business must have its principal place of business or significant employment presence in Montgomery County or Prince George’s County, defined as at least 25 percent of a business’ total employees must be located in either county.
District of Columbia	A business must have its principal office in the District of Columbia and the Chief Executive Officers and highest-level managerial employees of the business enterprise must perform their managerial functions in their principal office located in the District. The business must also meet one of the following (1) more than 50 percent of employees of the business are residents of the District; or (2) the owners of more than 50 percent of the business are District residents; or (3) more than 50 percent of the business’ assets, excluding bank accounts, are located in the District; or (4) more than 50 percent of the business’ gross receipts are District gross receipts as defined by current year business taxes filed with the District’s Office of Tax and Revenue.

Source: Montgomery County Code §11B-65; COMCOR 11B.65.01.02; Prince George’s County Code §10A-163; WSSC Code of Regulations Chapter 6.35; District of Columbia Code §§ 2-218.31 – 2-218.39a.

C. Reserved Contract Dollar and Required Spend

With the exception of Baltimore County and WSSC, all the jurisdictions reviewed require departments to award a dollar threshold to small businesses. In Prince George’s County this requirement extends to any agency that receives 50 percent of its annual budget (most recent fiscal year) from the County government. Both Prince George’s County and the District of Columbia can impose restrictions if departments fail to meet stated procurement goals. Montgomery County has the highest threshold for contract dollars reserved for competition through the LSBRP (Table 20). In comparison, other jurisdictions target smaller contracts (in dollar value) to small businesses.

Table 20. Contract Threshold Amounts and Required Government Spend on Small Businesses

Jurisdiction	Contract Dollars Reserved	Required Department Spend
Montgomery County	Eligible contracts under \$10 million reserved for local, small business competition	Minimum of 20 percent of department and County-wide spending
State of Maryland	Greater than \$200,000 reviewed for set-aside for small businesses; Strategic Plan developed for procurements under \$200,000	15 percent of department spending
Baltimore County	Under \$25,000 for construction contracts; Under \$500,000 for services contracts	Does not have required department spend
Prince George's County	Based on each department's dollar volume of goods and services	50 percent of department's contract dollar volume with County-based businesses; 30 percent with county-based small businesses
WSSC	Estimated value of \$1 million or less	Does not have a required spend, but tracks performance including number of businesses that won contracts and business success outside of the program
District of Columbia	\$250,000 or less to small businesses	50 percent of a department's expendable budget to small business enterprises

Source: Stakeholder interviews; Montgomery County Code §11B.66; COMCOR 11B.65.01.04; Md. Code Ann., State Fin. & Proc. Art. §14-501 - 14-505 (2011 Supp); Baltimore County Small Business Purchasing Program, available at <https://www.baltimorecountymd.gov/Agencies/budfin/purchasing/minoritybusiness/smallbusinesspurchasing.html>; Prince George's County Code §10A-162; WSSC Code of Regulations Chapter 6.35; District of Columbia Code §§ 2-218.41 – 2-218.55

Baltimore County Tiered Contracting. Baltimore County established a tiered procurement program to expand opportunities to businesses new to government contracting or prior County subcontractors. This program targets prime contracting opportunities in the construction trades and professional services at lower dollar values to allow for companies to gain experience. For upcoming solicitations, stakeholders review prior year spend on the contract to determine if a contract can be broken into tiers based on work required. Stakeholders report that contracts can have up to four tiers, but Tier 1 are smaller dollar value contracts reserved specifically for small businesses (definitions are bulleted below). A business may submit a bid in only one tier.

- **Construction Trades.** Award on-call contracts valued up to \$24,999 per project or a 5-year term contract with value not to exceed \$500,000 over the contract life. There are no bonding requirements or MBE/WBE subcontracting goals for Tier 1.
- **Professional Services.** Professional services contracts are determined by the Procurement Review Group and department prior to project advertisement. Under Tier 1, small businesses may be awarded contracts up to \$500,000.³⁹

³⁹ Stakeholder interview; Baltimore County Small Business Purchasing Program, available at <https://www.baltimorecountymd.gov/Agencies/budfin/purchasing/minoritybusiness/smallbusinesspurchasing.html>; Holden Wilen, Kamenetz aims to make procurement easier for minority, women-owned businesses, Baltimore Business Journal, July 27, 2017, available at <https://www.bizjournals.com/baltimore/news/2017/07/27/kamenetz-aims-to-make-procurement-easier-for.html>.

Local Small Business Reserve Program

D. Select Program Components

OLO selected several other program components to compare across jurisdictions reviewed. These components were selected based on comparability to the LSBRP and stakeholder feedback highlighted in Chapter 4. Program components reviewed:

- Price Reasonableness Requirements;
- Subcontract Requirements;
- Preferences or Bid Percentage Price Reduction Offered to Certified Businesses;
- Program “Graduation” Requirements; and
- Additional Programs Offered.

1. Price Reasonableness

Procurements in all jurisdictions are evaluated for price reasonableness to ensure prices being offered are fair and reasonable. Prince George’s County and District of Columbia set a mandated percentage in law - if a bid from a local, small business is 12 percent or more above the likely price on the open market, the department may decline to award the solicitation to the small business and proceed to solicit bids/proposals on the open market.

2. Subcontract Requirements

Prince George’s County, WSSC, and the District of Columbia all require businesses who are awarded government contracts to subcontract to certified small businesses. For example, Prince George’s County requires for procurements greater than \$500,000, that 40 percent of subcontractors are certified, County-based small businesses. WSSC may require a 40 percent subcontract requirement if there are enough eligible small businesses to perform the work. Additionally, if an approved small business receives a reserved contract, under WSSC regulations the business cannot subcontract more than 49 percent of the work to non-approved small businesses or minority/women owned businesses.

3. Preferences or Bid Percentage Price Reduction Offered to Certified Businesses

Prince George’s County, WSSC, and the District of Columbia also provide preference points or bid percentage price reduction for certified businesses based on business category (e.g., small business, longtime resident owned business, etc.). Montgomery County, Baltimore County, and the State of Maryland do not provide this benefit.

Prince George’s County. When a contract proposal includes 45 percent or higher participation from a certified local, small business, the County adds a specified percent to the total evaluated score of the bid or proposal. For example, County-based small businesses receive an additional 15 percent (Table 21).

Table 21. Assigned Preference Percentage Points for County-Based and County-Located Businesses

Business type	Percentage Points
County-Based small business	15%
County-Based minority business enterprise	15%
County-Based business	10%
County-Based Non-profit	10%
County-Located Business	5%

Source: Prince George's County Code §10A-173

WSSC. WSSC may apply a 10-point preference to competitive solicitations from local, small businesses for architectural and engineering, construction, goods and services, and professional services. If a WSSC approved small business wins the contract, the small business primes and subcontractors must retain 60 percent of the work. Additionally, a preference may be awarded to a non-approved-WSSC small business if the business contracts with or enters into a joint venture with a WSSC approved small business. In this case, the preference equals 10 percent of the amount of work subcontracted.⁴⁰

District of Columbia. A certified business enterprise is entitled to any or all the preferences listed below, but the business is not entitled to more than a preference of 12 points or a 12 percent reduction of price in a proposal (Table 22)⁴¹

Table 22. District of Columbia's Certified Business Enterprise Point and Bid Percentage Price Reduction

CBE Category	Proposal Points	Bid % Price Reduction
Local Business Enterprise	2	2%
Small Business Enterprise	3	3%
Disadvantaged Business Enterprise	2	2%
Development Enterprise Zone	2	2%
Resident-Owned Business	5	5%
Longtime Resident Business	5	10%
Veteran-Owned Business Enterprise	2	2%
Local Manufacturing Business Enterprise	2	2%

Source: District of Columbia Code § 2–218.43.

4. Program Graduation

As noted, jurisdictions define program eligibility based on business size standards. When a business grows to exceed these standards, the business is no longer eligible to bid on solicitations reserved under designated small business procurement programs or receive eligible preferences. OLO found two main differences between “graduation requirements” among jurisdictions reviewed. In addition to size standards, Montgomery County and WSSC employ a cumulative dollar threshold. Comparatively, Prince George's County and the District of Columbia structure their program such that businesses can move between different business categories and receive select benefits.⁴²

⁴⁰ Stakeholder interviews. WSSC Code of Regulations Chapter 6.35.

⁴¹ District of Columbia Code § 2–218.43

⁴² Stakeholder interviews.

Local Small Business Reserve Program

Chapter 6. Findings and Recommendations

The Local Small Business Reserve Program (LSBRP) was created in 2006 by the County Council to encourage economic growth in the County by reserving a percentage of County contracting opportunities for local, small businesses. The LSBRP is administered by the Office of Procurement Division of Business Relations and Compliance (DBRC) and has three legislative goals:

- Enhance the competitiveness of County-based small businesses by creating a separate market where small businesses can compete against each other rather than larger firms for County contracts;
- Broaden the pool of local, small vendors doing business with the County; and
- Encourage the County's economic growth by enhancing the business climate for local, small businesses.

To meet these goals, departments are required to set aside eligible contracts for competition among registered local, small businesses and County Government must spend at least 20 percent (of eligible contract dollars) annually with these businesses. LSBRP-registered businesses must meet business size (number of employees and average gross sales) requirements determined by business type and be located in Montgomery County. A business is no longer eligible for the LSBRP when it grows to exceed size limits, moves outside of the County, or receives 10 County contracts and \$10 million in cumulative awards.

This report responds to Council's request to better understand LSBRP participation, how the Program serves local, small businesses, and factors that contribute to a business' decision to participate. This chapter presents OLO's findings and recommendations.

FINDINGS

Finding #1. Since 2010, the County Government has met or exceeded legal requirements to award at least 20 percent of eligible contract dollars to LSBRP-registered businesses.

Eligible awards targeted to LSBRP businesses have increased significantly since FY10, rising from \$85 million to \$430.6 million in FY18. In FY18, 40 percent of all County procurements were eligible for the LSBRP, with 27 percent (\$115.4 million) awarded to LSBRP-registered businesses through the LSBRP-reserved and regular procurement processes (Table 23).

Table 23. County Spending Eligible for LSBRP-Reserved Contracts

	FY10	FY11	FY12	FY13	FY14	FY15	FY16	FY17	FY18
Amount Eligible for LSBRP Procurement	\$85.8	\$39.5	\$125.1	\$215.1	\$299.2	\$312.5	\$312.2	\$375.5	\$430.6
Expenditure to LSBRP Businesses (% of Eligible)	\$12.7 (15%)	\$8.0 (20%)	\$29.7 (24%)	\$52.6 (25%)	\$73.7 (25%)	\$74.8 (24%)	\$75.7 (24%)	\$93.4 (25%)	\$115.4 (27%)

Source: OLO, Office of Procurement, LSBRP Annual Reports FY10-FY18

Prior to FY11, the LSBRP law required a minimum of 10% of spending. County Government meets is 20% spend requirement to LSBRP-registered businesses through a combination of contracts reserved through the LSBRP and LSBRP-exempt contracts.

Finding #2. Business participation in the LSBRP has fluctuated – experiencing growth in 2010 and 2012, with registrations declining since 2014. The Office of Procurement has increased the pool of fully certified LSBRP-registered businesses.

The Office of Procurement tracks the number of businesses registered with the LSBRP. Between January 2010 and July 2018, on average 1,023 businesses were actively registered with the Program. Total number of businesses registered with the Program increased between 2010-2011 and again between 2012-2014. Since 2014, active registrations have declined – falling from a high of 1,260 active businesses in January 2014 to 1,047 businesses in July 2018. Available data indicate that upwards of 96 percent of all businesses in Montgomery County may likely qualify as small (50 or fewer employees) under the LSBRP eligibility requirements.

Since 2016, the Office of Procurement has increased the pool of LSBRP-registered businesses with full certification (met eligibility criteria and submitted all required forms), going from 91 businesses at the beginning of 2016 to 676 in July 2018. As of July 2018, 65 percent of businesses were fully certified (676 businesses out of 1,047 registered) with the Program.

Finding #3. Data indicate that active, LSBRP-registered businesses are significantly smaller in business size than allowed by LSBRP eligibility criteria.

OLO reviewed LSBRP registration data which shows there were 1,067 active LSBRP-registered businesses as of October 2018, of which approximately one-half registered with the Program since 2015 (52 percent). Registered LSBRP businesses are classified by business type – construction, manufacturing, retail, service, or wholesale. Businesses may select more than one business type and may meet the more liberal business size maximums. The data indicate that across all five business types, active, LSBRP-registered businesses were notably smaller than the legally established maximums, both in terms of number of employees and average gross sales. Of note, available data sources that track the number of businesses in Montgomery County do not track small businesses as defined by the LSBRP law and regulation, including business size standards. OLO was not able to compare business size characteristics of LSBRP-registered businesses to all businesses located in Montgomery County. As such, OLO cannot draw any conclusions regarding the size characteristics of LSBRP participants as compared to County businesses in general.

Local Small Business Reserve Program

**Table 24. Comparison of Maximum Business Size to Actual Business Size
for Active Registered LSBRP Businesses, October 2018***

Business Type	Maximum Business Size	Actual Average Business Sizes
Construction		
No. of Businesses	--	95
Avg. Gross Sales Prior 3 Years	\$14,000,000	\$3,378,973
Avg. No. of Employees	50	12
Manufacturing		
No. of Businesses	--	13
Avg. Gross Sales Prior 3 Years	\$14,000,000	\$3,062,233
Avg. No. of Employees	40	21
Retail		
No. of Businesses	--	39
Avg. Gross Sales Prior 3 Years	\$5,000,000	\$3,263,541
Avg. No. of Employees	30	8
Service		
No. of Businesses	--	796
Avg. Gross Sales Prior 3 Years	\$10,000,000	\$1,244,809
Avg. No. of Employees	100	11
Wholesale		
No. of Businesses	--	22
Avg. Gross Sales Prior 3 Years	\$5,000,000	\$3,018,928
Avg. No. of Employees	30	6
2 or More Business Types*		
No. of Businesses	--	102
Avg. Gross Sales Prior 3 Years	--	\$1,541,265
Avg. No. of Employees	--	10

Source: OLO, Office of Procurement, LSBRP Business Registry data provided October 2018.

*Gross sales data was not available for a total of 162 businesses.

Finding #4. *The majority of County procurement dollars are exempt from the LSBRP. In FY18, County procurements totaled \$1,081 million, of which \$905 million fell under at least one of the legally-established program exemptions.*

County contracts totaling \$10 million or less in value are assumed to be eligible for LSBRP designation; however, certain types of contracts are exempt from the Program. The most commonly cited exemptions were for pre-existing contracts and contracts greater than \$10 million. In FY18, approximately 84 percent of awards were exempt from the LSBRP (\$905.1 million) (Table 25). LSBRP-registered businesses may also compete for LSBRP-exempt contract opportunities; of the \$905.1 million exempted from the LSBRP, \$68.2 million or 8 percent was awarded to LSBRP-registered businesses.

Table 25. All Procurement Awards to LSBRP-Registered Businesses, LSBRP and LSBRP Exempt (FY11 -FY18)*

	FY11	FY12	FY13	FY14	FY15	FY16	FY17	FY18
Total County Procurements	\$1,050.7	\$845.3	\$974.1	\$980.8	\$1,175.9	\$1,171.4	\$1,108.8	\$1,081.2
Total LSBRP-Exempt	\$1,011.2	\$719.3	\$759.0	\$681.6	\$863.4	\$859.2	\$1,009.7	\$905.1
Total Awarded to LSBRP	\$38.9 (4%)	\$42.9 (6%)	\$44.1 (6%)	\$22.6 (3%)	\$13.8 (2%)	\$11.8 (1%)	\$68.1 (7%)	\$68.2 (8%)
Total Awarded to Non-LSBRP	\$972.3 (96%)	\$676.4 (94%)	\$714.9 (94%)	\$659.0 (97%)	\$849.6 (98%)	\$847.4 (99%)	\$941.6 (93%)	\$836.9 (92%)

Source: OLO, Office of Procurement, LSBRP Annual Reports FY10-FY18.

*Office of Procurement staff report that in 2011 the LSBRP Annual Report was updated to include annual data on awards to LSBRP-registered and non-LSBRP businesses. This data is not available for fiscal years prior to FY11.

Finding #5. The majority of awards eligible for the LSBRP were awarded to non-LSBRP registered businesses.

In FY18, \$176.1 million in contract awards were eligible for the LSBRP, of which approximately one-quarter (\$47.2 million) were awarded to LSBRP-registered businesses. If no LSBRP vendors submit a bid under an LSBRP solicitation, the solicitation, while LSBRP-eligible is open to non-LSBRP businesses. In FY18, the remaining 73 percent (\$128.9 million) of total eligible awards were awarded to non-LSBRP businesses.

Table 26. Procurement Awards to LSBRP-Registered Businesses (FY10-FY18)

	FY10	FY11	FY12	FY13	FY14	FY15	FY16	FY17	FY18
Total LSBRP Eligible	\$85.8	\$39.5	\$124.9	\$215.1	\$299.2	\$312.4	\$308.8	\$99.0	\$176.1
Awarded to LSBRP	12.7 (14%)	\$8.0 (20%)	\$29.6 (24%)	\$52.6 (24%)	\$73.7 (25%)	\$74.8 (24%)	\$75.7 (25%)	\$25.3 (26%)	\$47.2 (27%)
Awarded to Non-LSBRP	73.1 (86%)	\$31.5 (80%)	\$95.3 (76%)	\$162.5 (76%)	\$225.5 (75%)	\$237.6 (76%)	\$233.1 (75%)	\$73.7 (74%)	\$128.9 (73%)

Source: OLO, Office of Procurement, LSBRP Annual Reports FY10-FY18

Finding #6. Between January 2010 and June 2018, the County awarded contracts to 231 LSBRP-registered businesses. Generally, these businesses registered with the LSBRP prior to 2015 and are larger in size compared to all LSBRP-registered businesses.

The Office of Procurement data of LSBRP-registered businesses awarded County contracts (both LSBRP reserved and exempt) showed that the County awarded contracts to 231 LSBRP-registered businesses between January 2010 and June 2018. In total, these businesses received awards on 394 contracts, the majority of which were reserved through the LSBRP process (328 contracts or 83 percent). OLO matched LSBRP business size data (as of October 2018) for 207 of the 231 businesses awarded contracts.⁴³ Generally, the data show that of the 207 LSBRP-registered businesses awarded County Contracts:

⁴³ Data for 24 businesses were not available in the October 2018 LSBRP-registered Business dataset. OLO excluded these 24 businesses from the analysis. As noted, businesses must renew their LSBRP-registration every three years and available data reflects registration data as of October 2018. As such, business size data may not reflect actual size for the year the contract was solicited.

Local Small Business Reserve Program

- 84 percent of businesses first registered with the LSBRP before 2015, with the remaining 16 percent registering with the Program in the last three years, 2015-2018 (33 out of 207 businesses).
- Three-quarters of LSBRP-registered businesses awarded contracts provide professional or non-professional services (154 out of 207 businesses).
- With the exception of manufacturing, LSBRP-registered businesses awarded County contracts are larger both in number of employees and gross sales compared to all LSBRP-registered businesses (Table 27).⁴⁴

Table 27. Characteristics of LSBRP-Registered Businesses Awarded County Contracts
(data provided in October and November 2018)

LSBRP-Registered Businesses Awarded County Contracts between 2010-2018 (business size data available as of October 2018)				All LSBRP-Registered Businesses, October 2018	
Business Type	No. of businesses*	Avg. No. of Employees	Avg. Sales (in millions)	Avg. No. of Employees	Avg. Sales (in millions)
Construction	16	29	\$7.8	12	\$3.4
Manufacturing	7	9	\$1.3	21	\$3.1
Retail	10	20	\$9.7	8	\$3.3
Services	154	18	\$1.9	11	\$1.2
Wholesale	6	12	\$4.8	6	\$3.0
2 or More	14	21	\$2.6	10	\$1.5
Total	207	--	--	--	--

*includes both active and disqualified businesses

Source: OLO, Office of Procurement, and Awards to LSBRP-Registered Businesses data provided in November 2018.

Finding #7. *LSBRP-registered businesses were awarded \$369.7 million from January 2010 to June 2018. Of this, just over one-half of awards went to 10 LSBRP-registered businesses.*

LSBRP-registered businesses were awarded \$369.7 million (both LSBRP reserved and exempt); of which \$197.9 million was awarded to 10 businesses, or 54 percent of all awards (Table 28). The 10 LSBRP-registered businesses that received the highest cumulative awards either provide services or construction and tend to be larger companies (number of employees and/or average sales) (Table 29).

Table 28. Total Awards by LSBRP-Reserved and LSBRP-Exempt Contracts, January 2010 – June 2018

	All Awards to LSBRP-Registered Businesses		
	\$	%	No. of Businesses
Total Awards	\$369.7	100%	231
Awards to Top 10 LSBRP- Registered Businesses	\$197.9	54%	10
Remaining LSBRP-Registered Businesses	\$171.8	46%	221

Source: OLO, Office of Procurement, and Awards to LSBRP-Registered Businesses data provided in November 2018.

⁴⁴ Of those businesses included in the Office of Procurement data obtained in October 2018.

Table 29. Top 10 LSBRP-Registered Businesses with Highest Total Awards, January 2010 – June 2018

Name	Total Awards	No. Employees	Avg. Sales	Business Type
Athena Consulting	\$34.41	200	\$8.8	Services
Highway and Safety Services, Inc.	\$30.46	128	\$11.5	Services, Construction
Electric Advantage, Inc.	\$25.57	22	\$6.0	Construction
Baldwin Line Construction of Maryland, Inc.	\$22.16	43	\$9.1	Construction
O'Connell & Lawrence, Inc.	\$17.79	73	\$5.9	Services
EAI Security Systems, Inc.	\$15.18	28	\$6.0	Services
Henley Construction Co., Inc	\$14.53	Data Not Available		Construction
CDCI, Inc.	\$14.37	19	\$11.9	Construction
Earn Contractors	\$13.08	27	\$2.9	Construction
Bradley Technologies, Inc.	\$10.41	201	\$7.4	Services
Total	\$ 197.96	--	--	--

Source: OLO, Office of Procurement, LSBRP Business Registry data provided October 2018 and Awards to LSBRP-Registered Businesses data provided in November 2018.

Finding #8. *Businesses indicated a need for increased clarity regarding the LSBRP's 10 contract and \$10 million participation cap and the ability to track progress towards this requirement, as well as, more support for businesses as they grow in the LSBRP into mid-size, local businesses.*

Generally, stakeholders were not familiar with the 10 contracts or \$10 million LSBRP participation cap and lacked clarity as to the type of contracts that counted towards the limit (e.g., new contract, contract renewals, task orders, etc.). Stakeholders did not know where to find this information, as cumulative contract awards and number of contracts by businesses are not readily available. Additionally, without the ability to track progress, a stakeholder noted that notice of “graduation” came as a surprise. Stakeholders recommended evaluating this requirement to determine whether the cap should vary by business type.

Additionally, stakeholders reported a perception that businesses are no longer small once being awarded 10 contracts and \$10 million in awards. However, many businesses expressed facing difficulties competing for contracts on a competitive market and would like support from the County on the transition to “mid-size.” Stakeholders that are close to or have graduated from the LSBRP report that more could be done in terms of training and support for these growing businesses.

Finding #9. *To better track progress towards LSBRP legislative goals, there is a need for enhanced performance metrics to measure business outcomes.*

Stakeholders reported a lack of clarity about LSBRP business results, creating ambiguity about Program goals and negatively impacting the perception of the Program. The LSBRP annual report provides key statistics including the number of businesses registered and certified, number of outreach events, and total County and department spend with local, small businesses. Stakeholders reported that these measures effectively track procurement goals, but do not fully align to the LSBRP's legislative goals. Further, stakeholders felt that enhanced performance measures and reporting could improve the business community's perception of the Program. Possible metrics include:

- What was the impact for a business attending a training? Did the business submit a bid or proposal?

Local Small Business Reserve Program

- Did a participating business grow by adding staff or resources?
- Has a business increased revenue since participating in the Program?
- Is the business still in operation after LSBRP participation?
- Did a business secure a contract in a neighboring jurisdiction, with the State of Maryland, or with the Federal Government since participating in the Program?
- Did the LSBRP-registered business meet contract performance requirements? How many LSBRP-registered businesses have defaulted?

Finding #10. Success of the LSBRP is driven in part by effective marketing of the Program and upcoming solicitations. However, stakeholders reported that LSBRP lacks effective marketing.

Stakeholders all agreed that Office of Procurement DBRC staff are excellent resources for businesses and are successful at managing the Program. However, both County Government and external stakeholders report that the Program's marketing component is lacking. Many stakeholders would like the County to take a more proactive approach to marketing the LSBRP and upcoming contract opportunities, including:

- Establish ongoing communication of upcoming County spending trends (e.g., publication of upcoming solicitations for the current year by department and five-year spending trends);
- Increase opportunities for businesses to meet department procurement staff and learn about departments' future needs and trends;
- Expand options to create pilot programs to meet County needs and opportunities for local investment in area businesses; and
- Strengthen relationships with area Chambers of Commerce and business groups as key members to help promote the LSBRP and contracting opportunities.

Finding #11. The Business community and County Government staff provided several suggestions for improving the LSBRP.

At the outset, many stakeholders agreed that Program goals need to be aligned with trends in today's market place and opportunities exist to promote growth in small and mid-size local businesses. Specific suggestions provided by stakeholders, include:

- Increase understanding of the types of businesses located in the County and better determine which types of contracts should be reserved for the Program;
- Review business capabilities at the time of LSBRP registration to ensure effective marketing and competition for LSBRP opportunities (e.g., capability statements and work/contract history tied directly to selected commodity codes);
- Update the Central Vendor Registration System to ensure current email addresses for businesses and improved search capabilities;
- Establish preferences or bid price reduction for eligible local, small businesses;
- Encourage reciprocity of local, small business designation within the County among other agencies and municipalities that operate separate procurement programs (e.g. Montgomery County Public Schools or Montgomery College, City of Rockville);
- Prioritize contract awards under \$10,000 to local, small businesses; and
- Require subcontracting goals specifically for local, small businesses.

Finding #12. While the LSBRP is comparable to small business procurement programs in other jurisdictions, there are several differences which impact business processes and opportunities in the County.

Local, small business procurement programs across the region vary in many areas such as registration process, eligibility, required government spend, preferences, and graduation. Stakeholders consistently recommended reviewing other jurisdictions' practices in following three areas to improve operations and assist with meeting legislative goals of the County's LSBRP:

- **Certification Reciprocity.** Montgomery County sets its own size standards and requires businesses to provide proof of number of employees and average sales. Other jurisdictions permit businesses to submit small business certification from an approved third-party (e.g., State of Maryland) thus reducing the application burden. Stakeholders recommend aligning the County's business size standards to the State of Maryland and permitting businesses to submit alternate size certification.
- **Reserved Contract Dollar Amount.** Under the LSBRP, all contracts valued at \$10 million or less are assumed eligible for the LSBRP. Of jurisdictions reviewed, the County has the highest threshold for contract dollar reserved for competition among local, small businesses. Other programs focus on smaller contract values to increase opportunities for small businesses, including businesses new to government contracting or businesses looking to grow from subcontractors to prime contractors.
- **Program Graduation.** Under the LSBRP, assuming the business meets eligibility criteria, a business may stay in the Program until it reaches 10 County contracts and \$10 million in awards. With the exception of WSSC and the Federal SBA 8(a) Program, other jurisdictions reviewed do not employ this type of participation cap and Office of Procurement staff were not aware of other jurisdictions with similar requirements. Some jurisdictions have multi-tiered programs which allow businesses to receive procurement benefits as they grow.

Local Small Business Reserve Program

Recommendations

Recommendation #1: Review current LSBRP operations and suggestions by stakeholders to greater assist and increase the number of participating local, small businesses.

Stakeholders expressed that the LSBRP is an important County program to help grow local, small businesses and encourage economic growth. To ensure the Program continues to effectively serve local small businesses, stakeholders raised several opportunities, including:

Increase Opportunities for Local, Small Businesses

- Examining the dollar value of contracts assumed eligible for the Program to more effectively target opportunities for small businesses, including businesses new to government contracting or businesses looking to grow from subcontractors to prime contractors;
- Prioritizing contract awards under \$10,000 to local, small businesses;
- Requiring subcontracting goals for LSBRP-registered businesses; and
- Establishing preference points or bid price reduction for eligible businesses.

Implement Programs for Businesses that Grow in the LSBRP

- Expanding contract opportunities and support for businesses as they grow in the LSBRP (e.g., enhanced training, review of the 10 contract and \$10 million in cumulative awards limit, mentor-protégé model, etc.).

Streamline the LSBRP process and Ensure Business Capabilities

- Aligning the County's business size standards to the State of Maryland and permit businesses to submit alternate size certification (e.g., State of Maryland and/or Federal SBA);
- Vetting of business capabilities at the time of LSBRP registration through capability statements, past contract performance, and/or references directly related to goods and services offered;
- Updating the Central Vendor Registration System to ensure up-to-date email addresses for businesses and improved search capabilities; and
- Encouraging reciprocity of local, small business designation within the County among other County agencies and municipalities that operate separate procurement programs.

Recommendation #2: Develop LSBRP performance metrics to include outcomes for businesses participating in the Program.

The County established several performance metrics to annually track the County Government's progress in meeting LSBRP procurement goals. Data show that the County meets or exceeds procurement goals annually. Stakeholders reported a lack of clarity about LSBRP business results, creating ambiguity about Program goals and performance measures, which negatively impacts the perception of the Program. Opportunities exist to enhance performance metrics to track business outcomes and promote the Program. Possible metrics include:

- What was the impact for a business attending a training? Did the business submit a bid or proposal?
- Did a participating business grow by adding staff or resources?

- Has a business increased revenue since participating in the Program?
- Is the business still in operation after LSBRP participation?
- Did a business secure a contract in a neighboring jurisdiction, with the State of Maryland, or with the Federal Government since participating in the Program?
- Did the LSBRP-registered business meet contract performance requirements? How many LSBRP-registered businesses have defaulted?

Recommendation #3: Improve LSBRP marketing to increase awareness of the Program, its benefits, and opportunities for businesses to contract with the County.

Stakeholders all agreed that Office of Procurement DBRC staff are excellent resources for businesses and are successful at managing the Program. However, both County Government and external stakeholders report that the Program's marketing component is lacking. Many stakeholders would like the County to take a more proactive approach to marketing the LSBRP and upcoming contract opportunities, including:

- Establish ongoing communication of upcoming County spending trends (e.g., publication of upcoming solicitations for the current year by department and five-year spending trends);
- Increase opportunities for businesses to meet department procurement staff and learn about departments' future needs and trends;
- Expand options to create pilot programs to meet County needs and opportunities for local investment in area businesses; and
- Strengthen relationships with area Chambers of Commerce and business groups as key members to help promote the LSBRP and contracting opportunities.

Local Small Business Reserve Program

Chapter 7. Agency Comments

The Office of Legislative Oversight (OLO) shared final drafts of this report with staff from Montgomery County Government. OLO appreciates the time taken by Executive Branch staff to review the draft report and to provide technical feedback. This final report incorporates technical corrections and feedback received from staff.

The written comments received from the Chief Administrative Officer are attached in their entirety on the following pages.



OFFICE OF THE COUNTY EXECUTIVE


Marc Elrich
County Executive

Andrew W. Kleine
Chief Administrative Officer

MEMORANDUM

July 24, 2019

TO: Chris Cihlar, Director
Office of Legislative Oversight

FROM: Andrew Kleine, Chief Administrative Officer 

SUBJECT: OLO Draft Report 2019-9: Local Small Business Reserve Program

Thank you for providing a copy of the Office of Legislative Oversight's (OLO's) Draft Report 2019-9, Local Small Business Reserve Program. The draft report included the following findings and recommendations:

Recommendation #1: Review current LSBRP operations and suggestions by stakeholders to greater assist and increase the number of participating local, small businesses.

Increase Opportunities for Local, Small Businesses

CAO Response:

We agree with this recommendation and think that a better understanding of the types of businesses located in the County would help to better determine which types of contracts should be reserved for the Program. The Office of Procurement is exploring means to better forecast upcoming procurement opportunities and will coordinate with the Business Solutions Group and the Economic Development Corporation to understand the types of businesses in the County and their capabilities.

We agree that the purchases under \$10,000 are a good opportunity for local small businesses. Although direct purchases (DPO) do not come through Procurement, in 2017, the Office of Procurement worked with Finance and added a pop-up window on the DPO screen in Oracle to link users to the Central Vendor Registration System (CVRS) to encourage utilization of local, small vendors.

The current Local Business Subcontracting Program applies to contracts over \$10 million. The County is proposing to add a Local Preference Points Law that would apply to all Invitation for Bids (IFBs) and Request for Proposals (RFPs).



Implement Programs for Businesses that Grow in the LSBRP

CAO Response:

The Office of Procurement will enhance vendor training and outreach to align business capabilities with County's contract needs, including updating outreach materials to explain the 10 contracts / \$10 million participation cap.

Streamline the LSBRP process and Ensure Business Capabilities

CAO Response:

The Office of Procurement will review the certification process and will consider making any necessary improvements.

The Office of Procurement will remind the vendors about the importance of updating their information/vendor profiles. The Office of Procurement continues to encourage vendors to maintain current contact information. The Department of Finance also has a process to review vendor data and periodically remove non-active vendors. At the July 17, 2019 Open House, a representative from the CVRS registration system gave a presentation and provided suggestions for vendors to update their profiles.

The Office of Procurement is currently engaged with other County agencies to promote LSBRP opportunities. These agencies actively attend the Office of Procurement's outreach events such as the Procurement Forum and utilize the CVRS to search for LSBRP and minority vendors.

Finding #9: To better track progress towards LSBRP legislative goals, there is a need for enhanced performance metrics to measure business outcomes.

Recommendation #2: Develop LSBRP performance metrics to include outcomes for businesses participating in the Program.

CAO Response:

We agree with the recommendation and are reviewing its sub-measures to identify additional metrics in this area. Once these metrics are identified, the Office of Procurement will appropriate proper tools to measure them.

The Office of Procurement will continue to collaborate with the Business Solutions Group and Montgomery County Economic Development Corporation.

Finding #10: Success of the LSBRP is driven in part by effective marketing of the Program and upcoming solicitations. However, stakeholders reported that LSBRP lacks effective marketing.

Recommendation #3: Improve LSBRP marketing to increase awareness of the Program, its benefits, and opportunities for businesses to contract with the County.

CAO Response:

OLO Finding #10 and Recommendation #3 are closely related. We agree that more outreach efforts would help to encourage more local, small and minority vendors to learn about procurement opportunities and to participate in the County's LSBRP program. Procurement's outreach initiatives have recently been reviewed and expanded. In FY19, the office hosted or participated in 40 regional vendor outreach events. New events such as the Monthly Open House and increased Meet and Greet for upcoming contracting opportunities have now been added. These on-going improvements will address some of the above issues. The Office of Procurement will continue to look for additional ways to strengthen marketing and outreach efforts.

If you have questions or need additional information please contact Ash Shetty, Director of the Office of Procurement. Again, I thank the Office of Legislative Oversight for its excellent work on this report.

cc: Fariba Kassiri, Deputy Chief Administrative Officer
Jerome Fletcher, Assistant Chief Administrative Officer
Ash Shetty, Director, Office of Procurement

Local Small Business Reserve Program

List of Appendices

Appendix	Title	Begins at
A	• Summary Characteristics of LSBRP-Reserved and LSBRP-Exempt Contract Awards to LSBRP-Registered Businesses (2010-2017)	©1
B	• Small Business Procurement Programs in Other Jurisdictions (Case Studies)	©2

Appendix A. Summary Characteristics of LSBRP-Reserved and LSBRP-Exempt Contract Awards to LSBRP-Registered Businesses (2010-2017)

Awards*	2010		2011		2012		2013	
	LSBRP-Reserved	LSBRP-Exempt	LSBRP-Reserved	LSBRP-Exempt	LSBRP-Reserved	LSBRP-Exempt	LSBRP-Reserved	LSBRP-Exempt
Average Award	\$781,320	\$637,613	\$290,015	\$3,283,084	\$597,824	\$661,132	\$633,008	\$377,651
Median Award	\$99,855	\$345,585	\$80,000	\$328,799	\$55,500	\$36,502	\$75,313	\$177,550
Maximum Award	\$23,154,958	\$2,103,209	\$4,984,332	\$15,117,637	\$6,722,457	\$4,275,383	\$11,280,006	\$1,404,500
Minimum Award	\$11,273	\$25,000	\$11,500	\$29,083	\$10,000	\$10,163	\$13,034	\$10,565

Awards*	2014		2015		2016		2017	
	LSBRP-Reserved	LSBRP-Exempt	LSBRP-Reserved	LSBRP-Exempt	LSBRP-Reserved	LSBRP-Exempt	LSBRP-Reserved	LSBRP-Exempt
Average Award	\$347,528	\$373,130	\$1,047,976	\$736,986	\$340,027	\$319,398	\$531,493	\$1,400,316
Median Award	\$105,457	\$116,406	\$207,797	\$115,656	\$107,252	\$99,999	\$109,005	\$29,632
Maximum Award	\$3,257,492	\$1,498,606	\$6,315,121	\$3,500,401	\$4,035,093	\$1,526,081	\$5,955,021	\$8,394,579
Minimum Award	\$10,815	\$21,800	\$15,000	\$10,000	\$10,000	\$20,000	\$10,000	\$19,666

Source: OLO, Office of Procurement, and Awards to LSBRP-Registered Businesses data provided in November 2018.

*Represents individual encumbered amounts. There may be multiple encumbered amounts for each contract.

Local Small Business Reserve Program

Appendix C. Small Business Procurement Programs in Other Jurisdictions (Case Studies)

Jurisdictions	
A. State of Maryland	©3
B. Baltimore County (MD).....	©5
C. Prince George’s County (MD)	©7
D. Washington Suburban Sanitation Commission	©10
E. District of Columbia	©12
F. Fairfax County (VA)	©14

A. State of Maryland Small Business Reserve Program

The State of Maryland established the Small Business Reserve Program in 2004 to provide “small businesses with the opportunity to participate as prime contractors on State contracts by establishing a unique marketplace where small businesses compete against other small businesses instead of larger, more established companies.” As of FY17, 5,971 businesses were registered/certified with the Program; stakeholders estimate that between 1,600 and 1,700 of those registered have received State contracts.¹

In FY18 the Small Business Reserve Program underwent three significant policy changes to increase contract opportunities for small businesses:

- Increased the number of State agencies required to participate in the Program from 23 agencies to 70 agencies;
- Increased State agency set asides for small businesses from 10% to 15%; and
- Required that only procurements specifically designated to the Small Business Reserve Program at the onset of the procurement process may be counted toward achievement of the set-aside.²

1. Eligibility Criteria

In order to be eligible for the program, a business must be for profit (other than a broker); must be independently owned and operated; cannot be a subsidiary of another business; and cannot be dominant in its field of operation. Similar to the County’s LSBRP, businesses must meet size standards (i.e., number of employees or sales) based on business type.

Comparison of Business Size Standards State of Maryland and Montgomery County - 2019

State Small Business Reserve Program Business Size Standards			Montgomery County LSBRP Business Size Standards		
Business Type	Employee Limit	Prior 3 Years’ Average Sales Maximum	Employee Limit	Prior 3 Years’ Average Sales Maximum	
Construction	50	\$7 million	50	\$14 million	
Manufacturing	100	\$2 million	40	\$14 million	
Retail	25	\$3 million	30	\$5 million	
Service	100	\$10 million	100	\$10 million	
Wholesale	50	\$4 million	30	\$5 million	
Architectural & Engineering	100	\$4.5 million	--	--	

Source: Md. Code Ann., State Fin. & Proc. Art. §14-501

Location Requirement. A business is not required to be located in the State of Maryland to participate in the Small Business Reserve Program.

¹ Stakeholder interview. Governor’s Office of Small, Minority & Women Business Affairs, Annual report FY2017, available at [https://goma.maryland.gov/Reports/FY2017_AnnualReport_GOSBA\(2\).pdf](https://goma.maryland.gov/Reports/FY2017_AnnualReport_GOSBA(2).pdf)

² *Ibid.*

Local Small Business Reserve Program

2. Program Registration and Certification

Businesses register annually online via the State's e-Maryland Marketplace and complete a pre-qualification form providing basic information - business type, number of employees, and gross sales. Businesses meeting program criteria receive a Small Business Reserve Certification number and are eligible to respond to solicitations reserved under the Small Business Reserve Program. If a business is awarded a contract, the State confirms the business' certification in the Program. An unregistered small business may reply to a solicitation but must become certified prior to contract award. In addition to certifying registrations, the State also audits certified businesses and investigates complaints.³

3. Reserved Contract Dollar and Required Spend

Sixty-six State agencies are required to spend at least 15% in procurements annually with certified small businesses. Each year, State agencies are required to develop a strategic plan to demonstrate how the 15% will be met. Annual performance metrics are linked to these strategic plans.

All eligible procurements greater than \$200,000 are reviewed to determine if the solicitation can be set aside under the Small Business Reserve Program and have Minority Business Enterprise (MBE) or Veterans goals assigned. For contracts under \$200,000, the State encourages agencies to contract with certified small businesses.⁴ The State program exempts five general types of procurements from eligible expenditures, including:

- Procurements from a preference provider (i.e., Maryland Correctional Enterprises, Blind Industries and Services of Maryland, the Employment Works Program, and the Maryland Vending Facilities Program for the Blind);
- Procurements governed by federal law or grant provisions that conflict with the Small Business Reserve Program;
- Pass-through payments (e.g., employee health benefits, employee retirement contributions, employee travel payments), although administrative and management fees spent to process payments are included; and
- Expenditures excluded under Md. Code 21.01.03.01 (e.g. reimbursement contracts for Medicare, land purchases, multi-state agencies, etc.)⁵

4. Program Graduation

A business is not eligible to participate in the program if it grows to exceed business size standards set in State law. The State does not have additional "graduation" requirements based on the number of State contracts received and dollar value of contracts.

³ Stakeholder interview.

⁴ *Ibid.*

⁵ State of Maryland Board of Public Works, BPW Advisory 2005-1 Small Business Reserve Program, available at <https://bpw.state.md.us/Pages/adv-2005-1.aspx>

B. Baltimore County Small Business Purchasing Program

Baltimore County established a Small Business Purchasing Program in 2017, with the goal of increasing prime contracting opportunities for businesses new to government contracting or prior County subcontractors. The Small Business Purchasing Program is a tiered program focused on construction trades and professional services.⁶

1. Eligibility Criteria and Program Registration

In establishing the program, Baltimore County did not create County-defined business size standards and does not self-certify businesses. Rather businesses, may use certification obtained from one of the four following sources when submitting bids or proposals under the Program:

- Small Business Administration;
- Veterans Affairs Small and Veteran Business Programs;
- Maryland Small Business Reserve Program; or
- Maryland Department of Transportation Office of Minority Business.⁷

Location Requirement. Baltimore County does not have a location requirement.

2. Reserved Contract Dollar and Required Spend

The Small Business Purchasing Program primarily focuses on expanding prime contracting opportunities in the construction trades and professional services. There is no spending requirement for County departments to contract with small businesses.

In order to identify opportunities for upcoming solicitations, staff review prior year spend on a contract and determine whether the contract can be split into tiers. Tiering allows smaller firms to compete for smaller dollar value contracts and gain experience with County processes. A contract may have up to four tiers based on dollar amount and work required, with Tier 1 being reserved for small businesses:

- **Tier 1 Construction Trades.** Award on-call contracts valued up to \$24,999 per project or a 5-year term contract with value not to exceed \$500,000 over the contract life. There are no bonding requirements or MBE/WBE subcontracting goals for Tier 1.
- **Tier 1 Professional Services.** Professional services contracts are determined by the Procurement Review Group and department prior to project advertisement. Under Tier 1 – small businesses may be awarded contracts up to \$500,000.

The County reserves the right to award more than one contractor per tier, with contractors bidding only one tier for which they wish to be considered. If no responsible small business submits a qualified bid for Tier 1 work, County departments may solicit bids/proposals on the open market.⁸

⁶ Stakeholder interview. Baltimore County Government, Small Business Purchasing Program, available at <https://www.baltimorecountymd.gov/Agencies/budfin/purchasing/minoritybusiness/smallbusinesspurchasing.html>.

⁷ *Ibid.*

⁸ *Ibid.*

Local Small Business Reserve Program

3. Program Graduation

A business is no longer eligible to participate in the program if it grows to exceed business size standards defined by the four certifying organizations. Baltimore County does not impose additional “graduation” requirements based on the number of County contracts received and dollar value of contracts.⁹

⁹ Stakeholder interview.

C. Prince George's County Based Business Certifications

Prince George's County certifies County-based businesses for the purpose of increasing economic development in the County by offering bidding preferences. Prince George's County has multiple certifications, including one for small businesses located in the County.

1. Eligibility Criteria

County-Based Small Business. To be eligible as a County-based small business, the business must be located in Prince George's County and have operated continuously for 12 months prior to completing an application. A business must provide the following documents, which must align to the North American Industry Classification System (NAICS) codes selected by the company as proof of services/products they provide:

- Must operate as a County business for at least one full year;
- Provide documentation that during the preceding 12 months the business has continuously operated an office in the county as its principal place of operation (lease/rental agreement or proof of real estate ownership);
- Original/amended partnership and/or joint venture agreements;
- Official articles of incorporation or other organizational documents (licenses);
- List of executives, their work location, and whether they are County residents;
- Resume of all company executives and organizational chart;
- Valid ID and proof of U.S. citizenship;
- Copy of tax return for prior three years;
- Proof that the business is not delinquent in the payment of any County taxes;
- Bonding and current insurance forms, if applicable;
- List of at least three business references;
- List of three comparable past performance within the last three years (related to NAICS codes);
- File documentation that shows:
 - More than 50% of business' full-time employees are County residents; or
 - Owners of more than 50% of the business are County residents; or
 - More than 50% of the assets of the business, excluding bank accounts, are located in the County; or
 - More than 50% of the total sales or other revenues of the business are derived from the transactions of the business in the County.¹⁰

A business meeting additional eligibility criterion may receive one of the other certifications listed below. Of note, Prince George's County accepts either the State of Maryland's Small Business Reserve Program Certification or the Federal Small Business Administration Certification.

¹⁰ Stakeholder interview. Prince George's County Code §10A-163. Prince George's County Supplier Development and Diversity Division, Certification Training, available at <https://www.princegeorgescountymd.gov/DocumentCenter/View/4419/Presentation---Certification-Training>

Local Small Business Reserve Program

Additional Eligibility Criteria for Special Designation under the Prince George's County-Based Business Certification Program

Type	Definition
County-Based Small Business	Meets definition of “small business” pursuant to the Maryland Code or Federal Definition and meets requirements of county-based business detailed above. Site visits are required for businesses not registered through approved certifying agencies.
County-Based Minority Business Enterprise	Certified as a Minority Business Enterprise by one of five recognized entities (MDOT, WMATA, VA, NMSDC, or WPEO) as well as SDDD, and is headquartered in Prince George's County and certified as a County-based business.
County-Based Non-Profit	Non-profit entities that meet applicable requirements and are headquartered in the County are eligible to be certified as a County-based business.

Source: Prince George's County Code §10A-163.

County Located Business. If a business does not meet the definition of County-based, a business may receive designation as a county-located business. A County-located business must have a County office and have onsite for the full duration of the lease the following:

- At least five full-time equivalent employees in the County office; OR
- At least three full-time equivalent employees in the County Office with at least two of the FTEs being County Residents; OR
- An ownership interest in the building containing the county office and have at least three employees in the County office.

The business must provide proof to meet the definition of county-located (e.g., payroll information, leasing or ownership documents, etc.), must be current on all County taxes and fees, and show the business has continuously maintained a valid business license or permit for the preceding 12 months.¹¹

2. Program Registration

Prince George's County offers a universal certification application in which businesses may registered for county-based business certification, minority business enterprise or disadvantage business enterprise or a combination certification. County staff review applications and submitted documents, with full certification being awarded within 90 days. Businesses must recertify on an annual basis.¹²

3. Reserved Contract Dollars and Required Spend

Each County agency that receives 50% of its annual budget (most recent fiscal year) from the County government is required to use its “best efforts” to procure at least 50% of dollar volume of goods and services from County-based businesses and at least 30% from County-based small businesses on an annual basis. Eligible procurements with a total value of \$500,000 or less are set aside for competition among county-based small businesses. If the County agency fails to meet the set aside goals, the County Council or County Executive may require that a portion of the agency's

¹¹ Prince George's County Code §10A-173.

¹² Stakeholder interview.

procurements be made part of a set-aside program for County-based businesses and/or County-based small businesses. There are no set aside requirements if a County agency:

- Determines that there are not at least two County-based small businesses that can sufficiently perform the work; or
- Determines that the lowest county-based small business is bid is for a price that is 12% or more above the likely price on the market.¹³

Marketing Opportunities. Each fiscal year, the County publishes a forecast of upcoming procurement opportunities for each department. An electronic copy is shared with the Prince George's Chamber of Commerce, Greater Prince George's Business RoundTable, and the Prince George's Community College. Additionally, Prince George's County Government publishes online Supplier Directories for County-based businesses (small and minority business enterprises) and County located businesses. These provide an alphabetical list of all certified businesses, including contact information, industry classification, certifying agency, number of employees, NAICS code and brief business description.

4. Preferences Awarded and Required Subcontracting Participation

Prince George's County assigns preference points to proposal/bid evaluation based on business type. To receive the following preferences, a business must self-perform at least 45 percent of the work as defined in the proposal. County-based small businesses receive 15% added to total scores. For procurements greater than \$500,000, Prince George's County also requires 40% of the work to be completed by certified County-based small businesses. This percentage may be increased if sufficient competition exists.¹⁴

Percentage Points Awarded to Qualified Firms

Business type	Percentage Points
County-based small business	15%
County-based minority business enterprise	15%
County based business	10%
County Based Non-profit	10%
County Located Business	5%

Source: Prince George's County Code §10A-173.

5. Program Graduation

Due to the nature of Prince George's County-based business certification program, stakeholders report that while a business may no longer qualify as a small business, it nonetheless can remain certified under a different designation (e.g., county-based business, County-based minority business enterprise, etc.). As such, a business may still receive preferences based on various types of certification.¹⁵

¹³ Prince George's County Code §10A-161, 162.

¹⁴ There are additional requirements for businesses to subcontract work to County-based minority businesses on construction projects, if work is being subcontracted.

¹⁵ Stakeholder interview.

Local Small Business Reserve Program

D. Washington Suburban Sanitation Commission (WSSC)

The Washington Suburban Sanitation Commission (WSSC) established their Small Local Business Enterprise (SLBE) program in 2001 to encourage greater availability, capacity development, and contract participation by SLBEs on Commission contracts. WSSC Office of Supplier Diversity & Inclusion (OSDI) administers the program.

1. Eligibility Criteria

WSSC approves businesses to participate in its SLBE program, however, it does not self-certify businesses - WSSC uses the State of Maryland's Small Business Enterprise program certification. To receive an approved-SLBE designation a business must meet the following criteria:

- Have its principal place of business or significant employment presence in Montgomery County or Prince George's County. Significant employment presence means at least 25% of a business' total employees must be located in either county.
- Is independently owned and operated, not dominant in its field of operation, and is not a broker;
- Be established for at least one year or principals of the business must have at least three years of relevant work experience; and
- Have not received more than \$2 million in WSSC contract payments as a prime contractor and direct subcontractor in open competition from WSSC in the year preceding the date of the application.¹⁶

2. Program Registration

Businesses interested in the program must complete the SLBE application, which includes providing information on past work history, prior WSSC contracts awarded in the past 12 months, and primary and secondary NAICS codes. Once submitted, WSSC reviews the application and supporting documents. Stakeholders note that WSSC hires an independent third-party contractor to verify business applications for the program. Businesses whose applications are denied are not eligible to submit an application for one year. Those businesses approved for the program must have their certification renewed every two years.¹⁷

3. Reserved Contracts and Required Dollar Spend

WSSC reserves solicitations which have an estimated value of \$1 million or less for award to WSSC-approved SLBE or to a joint venture with a WSSC-approved SLBE business. To determine whether to reserve a solicitation for the SLBE program, staff examine whether there are at least three WSSC- approved SLBE available and capable to participate; the degree of underutilization of the WSSC-approved SLBE prime contractors in the specific industry; and the extent to which the SLBE prime contractor goals are being achieved. Approved SLBE prime and subcontractors must retain 60% of the contract value and may not subcontract more than 40% to subcontractors.

WSSC does not have a requirement for a certain percentage of contract dollars to be awarded to SLBE firms. Rather performance is tracked by the number of firms registered, the number of firms that won contracts, total dollars awarded, and the success of businesses outside the program (i.e., are businesses winning other government contracts or private industry contracts).¹⁸

¹⁶ Stakeholder Interviews. WSSC Code of Regulations Chapter 6.35. WSSC, Small Business Enterprise Guidelines, available at <https://www.wsscwater.com/files/live/sites/wssc/files/SLMBE-1/SLBE%20GUIDELINES%20-%20FY%202019.pdf>

¹⁷ *Ibid.*

¹⁸ *Ibid.*

4. Preferences Awarded, Required Subcontracting and Other SLBE Programs

Preferences. WSSC regulations permit the application of preferences to competitive solicitation for architectural and engineering, construction, goods and services, and professional services. The preference provides additional points in the evaluation of the proposals and a reduction in price for bids:

- RFP Preference Points shall not exceed 10 points. If an approved SLBE-firm is awarded the preference, SLBE primes and subcontractors must retain 60% of the contract value.
- IBF Price Reduction Preference shall not exceed 10 points. Similarly, if preference is awarded approved SLBE prime and subcontractor must retain 60% of the contract value.
- A preference may be awarded to a non-SLBE contractor that contracts with a WSSC approved-SLBE business or proposes a joint venture. In this case the preference may equal 10% of the amount subcontracted.

Subcontract Requirements. At the discretion of WSSC, a prime contract may be required to subcontract a predetermined percentage of a contract (up to 40%) to eligible WSSC-approved SLBEs. This percentage is based on an availability analysis using NAICS codes or other resources which determines whether there is sufficient business participation available. An approved, SLBE prime contract cannot subcontract more the 49% of contract value to a non-SLBE or non-Minority/Woman Business Enterprise.

Additional Programs. WSSC has created or is in the process of establishing additional program attributes aimed at increasing participation, including:

- *Small Contract Rotation Program.* This program was initiated to provide an efficient means to award work and to equitably distribute purchases among qualified SLBEs. Contracting opportunities are widely publicized and are awarded on a rotating basis to qualified SLBE firms.
- *Mentor-Protégé Program.* Stakeholders reported that WSSC is currently planning a mentor-protégé program to help develop contract capacity of SLBE businesses. Under the regulation, incentives will be offered based on an approved mentor-protégé development plan which includes objectives, duration of the arrangement, and services and resources provided by the mentor to the protégé.
- *Access to Capital, Bonding, and Insurance Requirements.* To help firms overcome inability to obtain bonding, insurance or financing, WSSC waives or reduces the insurance or bonding requirements depending in the type of contract and whether WSSC determines that these requirements would deny an SLBE the opportunity to perform the contract that otherwise it could perform.¹⁹

5. Program Graduation

SLBE businesses may graduate either by exceeding the size requirements or whenever the business receives a cumulative total in prime or subcontract payments of either: \$10 million for WSSC architecture and engineering, goods and services, and professional services contractors; or \$14 million for WSSC construction contracts or subcontracts since the business' initial approval.²⁰

¹⁹ WSSC Code of Regulations Chapter 6.35.

²⁰ *Ibid.*

Local Small Business Reserve Program

E. District of Columbia’s Certified Business Enterprise Program

The District of Columbia (DC) Government offers several preferred contracting opportunities for certified business enterprises, including a small business program.

1. Eligibility Criteria

Under the District’s program, a business must first be certified as a local business enterprise by meeting the following criteria:

- The principal office is located in the District of Columbia;
- The Chief Executive Officers and highest-level managerial employees of the business enterprise must perform their managerial functions in their principal office located in the District;
- The business must meet one of the following:
 - More than 50% of employees of the business are residents of the District;
 - The owners of more than 50% of the business are District residents;
 - More than 50% of the business’ assets, excluding bank accounts, are located in the District; or
 - More than 50% of the business’ gross receipts are District gross receipts as defined by current year business taxes filed with the District’s Office of Tax and Revenue.

Businesses are required to submit several documents including a current business license, articles of incorporation, proof that taxes are paid, lease or deed for business site, current financial statements, income tax returns for last three years, minutes from most recent organization meeting, list of current employees and addresses, resumes of key personnel, and company capability statement.²¹

Once certified, a business may pursue additional certifications, including for small businesses.

Business Certifications Available in Washington D.C.
Local Business Enterprise
Small Business Enterprise
Disadvantaged Business Enterprise
Development Enterprise Zone
Resident-Owned Business
Longtime Resident Business
Veteran-Owned Business Enterprise
Local Manufacturing Business Enterprise

Small Business Enterprise. A Small Business Enterprise must either be certified the United State Small Business Administration as a small business or meet the definition of a small business under the Federal Small Business Act.

²¹ District of Columbia Code §§ 2-218.31 – 2-218.39a. District of Columbia, Department of Small and Local Business Development, Certification FAQs, available at <https://dslbd.dc.gov/page/certification-faqs>.

Eligibility is determined by average annual gross receipts for the three years preceding certification. The District does not exclusively use the Small Business Administration limits.

District of Columbia's Small Business Enterprise Gross Sales Limit²²

Small Business Enterprise Category	Limit (in millions)
Construction	
Heavy (e.g. street and highways, etc.)	\$23M
Building (e.g., general construction)	\$21M
Specialty Trades	\$13M
Goods and Equipment	\$20M
General Services	\$19M
Professional Services	
Personal Services (e.g., beauty, laundry, etc.)	\$5M
Business Services	\$10M
Health and Legal Services	\$10M
Health Facilities Management	\$19M
Manufacturing Services	\$10M
Transportation & Hauling Services	\$13M
Financial Institutions	\$300M

2. Program Registration

Businesses complete an online application and submit all required documents for certification, which may include company capability statement, personal or business District and federal income tax return, or lease/deed for business site. Staff then review the application and documents for final certification, usually within 45 days. Businesses must renew their certifications every three years.²³

3. Reserved Contract Dollars and Required Spend

Agencies must set aside contracts or procurements of \$250,000 or less for qualified small business enterprises. If the agency determines that the bids submitted by the qualified small business enterprises are 12% or more above the likely price on the open market, the agency may decline to award the contract or procurement to the qualified small business enterprise.

Each agency that contracts through the DC Government's Office of Contracting and Procurement must contract 50% of its expendable budget to a qualified small business enterprise. If there are not at least two qualified small business enterprises, the agency may contract with a certified business enterprise. If an agency cannot meet this requirement, the Mayor can restrict the agency from spending its remaining expendable budget with non-small business enterprises or non-certified business enterprises. Each year, agencies must detail spending plans for meeting the 50% goal.²⁴

²² District of Columbia, Department of Small and Local Business Development, Certification FAQs, available at <https://dslbd.dc.gov/page/certification-faqs>; Get Certified, available <https://dslbd.dc.gov/page/get-certified> ; Certification Document List, available at https://dslbd.dc.gov/sites/default/files/dc/sites/dslbd/page_content/attachments/CBE%20SmpCkdt.pdf

²³ Ibid.

²⁴ District of Columbia Code §§ 2-218.41 – 2-218.55

Local Small Business Reserve Program

F. Fairfax County Government

The State of Virginia does not allow jurisdictions to establish set aside programs for local small businesses. However, stakeholders report that Fairfax County Government encourages departments to award contracts to local small businesses. The County tracks performance of County contracting by aiming to achieve a dollar value of contracts awarded to small and minority businesses at 40% or greater. In FY17, the County awarded \$279.28 million to small and minority businesses, 41% of total procurement dollars.²⁵

Marketing and Outreach. Fairfax County Government hosts and attends many events throughout the year. Every other month the County hosts a “selling to Fairfax” event which creates opportunities for businesses to meet with a contract specialist to discuss the ins and outs of the procurement process. Additionally, the County hosts an annual Small Business forum. Part of the forum is a reverse trade show where businesses can meet with all buying departments’ program managers. Stakeholders also report that the County is working on a plan to promote procurement opportunities to underserved communities.²⁶

Future projects. Stakeholders report several initiatives currently under consideration to increase spending with local small businesses, included:

- Requiring a county department to seek at least one bid from a local small business for contracts valued under \$10,000. Stakeholders report that this could encourage a culture shift towards increased spending with local small businesses; and
- Establishing regular meetings with Count departments to set goals for contract spending, evaluate upcoming needs, and set strategic goals.

²⁵ Stakeholder interview. Fairfax County Government, Department of Procurement and Material Management, Adopted FY19 Budget, available at <https://www.fairfaxcounty.gov/budget/sites/budget/files/assets/documents/fy2019/adopted/pm/12.pdf>

²⁶ Stakeholder interview. Fairfax County Small Business Forum, available at <https://www.fairfaxcounty.gov/small-business-commission/forum>